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SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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St. Louis County Library 1640 S. Lindbergh Blvd. St. Louis, MO 63131-3598 (314) 994-3300 ext. 247	Law Library University of Missouri-Kansas City 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-2438	Daniel Boone Regional Library PO Box 1267, 100 West Broadway Columbia, MO 65205-1267 (573) 443-3161 ext. 359	Meyer Library Missouri State University PO Box 175, 901 S. National Springfield, MO 65804-0095 (417) 836-4533
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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2270—Missouri Veterinary Medical Board
Chapter 1—General Rules**

EMERGENCY AMENDMENT

20 CSR 2270-1.021 Fees. The board is proposing to amend paragraph (1)(B)3.

PURPOSE: The board is statutorily obligated to enforce and administer the provisions of sections 340.200 to 340.330, RSMo. Pursuant to section 340.210.3(9), RSMo, the board shall establish fees necessary to administer the provisions of sections 340.200 to 340.330, RSMo, so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 340.200 to 340.330, RSMo. Therefore, the board is proposing to increase the Veterinary Technician National Examination fee to be consistent with the American Association of Veterinary State Boards (AAVSB), as they are contracted with the board for services relating to the administration of the examination.

EMERGENCY STATEMENT: This emergency amendment is necessary to preserve a compelling governmental interest requiring an early effective date of the rule by informing the public of a change in the national examination fee required for the licensure of veterinary technicians. The board is proposing to increase the Veterinary

Technician National Examination fee from one hundred ten dollars (\$110) to two hundred dollars (\$200) effective with the June 2009 examination. The application deadline for admission to the June examination is April 17, 2009. The amendment is necessary to be consistent with the American Association of Veterinary State Boards (AAVSB) who contracts with the board for services relating to the administration of the examination. The emergency amendment is necessary to allow the board to collect the increased examination fee. The increase in the fee was prompted by the AAVSB raising their fee charged to the board for administering the exam effective January 15, 2009. This is a pass-through fee; therefore, the board receives no monetary gain due to the increase. The board has filed this proposed amendment with the secretary of state's office and the Joint Committee on Administrative Rules, which will appear in the May 1, 2009, issue of the *Missouri Register* and will not become effective until at least November 30, 2009.

The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. In developing this emergency amendment, the board discussed the fee increase during its January 22-23, 2009, open meeting after public notice. The board has no advanced notice of specific examination applicant names and addresses. Potential applicants for the examination receive notice of the fee increase upon contact with the office. The board has also notified veterinary technician programs of the fee increase. The board believes this emergency amendment to be fair to all interested parties under the circumstances. This emergency amendment was filed March 23, 2009, effective April 2, 2009, and expires January 12, 2010.

(1) The following fees are established by the Missouri Veterinary Medical Board:

(B) Veterinary Technicians—

1. Registration Fee	\$ 50
2. State Board Examination Fee	\$ 30
3. National Examination Fee	\$/110/200
4. Reciprocity Fee	\$ 50
5. Grade Transfer Fee	\$ 50
6. Provisional Registration Fee	\$ 50
7. Annual Renewal Fee—	
A. Active	\$ 20
B. Inactive	\$ 10
8. Late Renewal Penalty Fee	\$ 50
9. Name Change Fee	\$ 15
10. Wall Hanging Replacement Fee	\$ 15

AUTHORITY: sections 340.210 and 340.232, RSMo 2000. This rule originally filed as 4 CSR 270-1.021. Original rule filed Nov. 4, 1992, effective July 8, 1993. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed March 23, 2009, effective April 2, 2009, expires Jan. 12, 2010. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2008.

EXECUTIVE ORDER 09-15

WHEREAS, the production of automobiles in Missouri, and the secondary industries that automobile production supports, are vital to the State's economy; and

WHEREAS, the economic crisis and displacement of the automotive industry workforce threatens the State's economy; and

WHEREAS, this highly-skilled workforce can play a leading role in Missouri's future automotive ventures; and

WHEREAS, Executive Order 09-01 created the Missouri Automotive Jobs Task Force; and

WHEREAS, there is an overwhelming number of highly-skilled Missourians with expertise in the automotive and automotive-related industries who can provide invaluable assistance in fulfilling the goals of the Task Force; and

WHEREAS, a large number of such Missourians have stepped forward and offered to share their expertise; and

WHEREAS, in the interest of maximizing the effectiveness of the Task Force, it is necessary to expand its membership.

NOW THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, do hereby expand the Task Force to consist of the following 18 members:

David Bardgett	St. Charles, Missouri
Chris Chung	Clayton, Missouri
Jim Curran	Fenton, Missouri
Zelema Harris	St. Louis, Missouri
Bob Lloyd	St. Louis, Missouri
Don Nissanka	Lee's Summit, Missouri
Clyde McQueen	Kansas City, Missouri
Randy Moore	Joplin, Missouri
Tony Reinhart	Parkville, Missouri
Nick Robinson	St. Charles, Missouri
Zsolt Rummy	St. Louis, Missouri
Jim Russell	Jefferson City, Missouri
John Schicker	St. Louis, Missouri
John Sheffield	Rolla, Missouri
Jack Stack	Springfield, Missouri
Don Wainwright	Wildwood, Missouri
Edward Wallace	Kansas City, Missouri
Stan Wallach	Kirkwood, Missouri

Chris Chung shall be the Chair of the Task Force.


The Task Force shall issue its report and recommendations as soon as practicable but not later than ninety days from the date of this Order, unless otherwise agreed to by me.

This Order supersedes Executive Order 09-01 to the extent that the Orders are inconsistent.



ATTEST:

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 24th day of March, 2009.


Jeremiah W. (Jay) Nixon
Governor


Robin Carnahan
Secretary of State

EXECUTIVE ORDER
09-16

WHEREAS, the State of Missouri recognizes that all citizens have a right to live in safe communities; and

WHEREAS, more than 30,000 offenders are incarcerated in Missouri prisons and approximately 70,000 are under supervision at a substantial cost to the taxpayers of this state; and

WHEREAS, 97% of offenders in the custody of the Missouri Department of Corrections will be released from prison to live in communities across the State of Missouri; and

WHEREAS, the State of Missouri recognizes that a good and responsible government is one that applies its resources in an efficient, effective and coordinated effort to ensure offenders leave prison with the tools they need to be successful, law-abiding citizens – not just for the offender, but for children, families, friends, neighbors, visitors and businesses; and

WHEREAS, offenders released from prison without the tools necessary to become law-abiding and productive citizens frequently commit additional crimes at a significant cost to taxpayers and substantial impact on crime victims; and

WHEREAS, the Missouri Reentry Process (MRP) was initiated in 2002 and provides state and local collaboration and a framework to promote common interests, integrate policies and services and improve the overall transition process of these offenders leaving prison and returning to Missouri communities; and

WHEREAS, more than 8,000 offenders have been released after completing the full preparation for reentry in a transition housing unit; and

WHEREAS, there has been a 10% reduction in recidivism by offenders who have completed the Missouri Reentry Process; and

WHEREAS, ongoing commitment to this program from all participating State departments is a requirement for its ultimate success; and

WHEREAS, all Missourians will benefit from the success of this collaborative approach to public safety.

NOW THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by the power vested in me by the laws and Constitution of the State of Missouri, do hereby direct the Department of Corrections to lead a permanent interagency steering team for the Missouri Reentry Process. The steering team shall be comprised of executive level staff from the following state agencies:

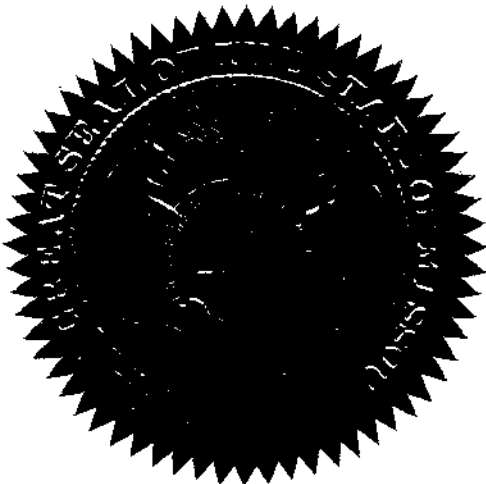
- Department of Corrections
- Missouri Board of Probation and Parole
- Department of Mental Health
- Department of Social Services
- Department of Secondary and Elementary Education

- Department of Economic Development
- Department of Revenue
- Department of Health and Senior Services
- Office of the State Courts Administrator
- Department of Public Safety
- Department of Transportation

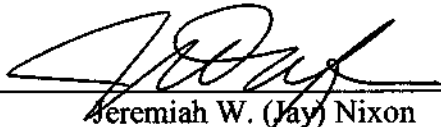
Membership shall also include representatives from various community organizations representing the crime victims, law enforcement, treatment providers, the faith-based community and any others deemed necessary to accomplish the mission set forth herein.

The Director of the Department of Corrections shall appoint a chairperson of the Missouri Reentry Process Steering Team responsible for its oversight and direction. The Missouri Reentry Process Steering Team shall integrate successful offender reentry principles and practices in state agencies and communities resulting in partnerships that enhance offender self-sufficiency, reduce re-incarceration, and improve public safety.

The Department of Corrections shall, with the Missouri Reentry Process Steering Team, provide bi-annual reports to the Governor and Directors of the partnering state agencies and community organizations on the outcomes, progress towards goals and emerging issues relative to the Missouri Reentry Process.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 26th day of March, 2009.


Jeremiah W. (Jay) Nixon
Governor

ATTEST:


Robin Carnahan
Secretary of State

EXECUTIVE ORDER
09-17

WHEREAS, the American Recovery and Reinvestment Act of 2009 ("Recovery Act") presents the State of Missouri the opportunity to create jobs, improve infrastructure and transform our economy for the 21st century; and

WHEREAS, Executive Order 09-12 created the Transform Missouri Initiative which has been staffed by personnel from various executive branch departments; and

WHEREAS, the Transform Missouri Initiative has been working diligently to identify programs and projects that could benefit from the Recovery Act; and

WHEREAS, the State of Missouri is committed to administering the Recovery Act in a prudent manner that strictly adheres to principles of accountability and transparency; and

WHEREAS, the federal government has issued and will continue to promulgate regulations and guidance concerning the implementation of the Recovery Act; and

WHEREAS, the State of Missouri is beginning the process of submitting applications, certifications and other necessary documents to federal agencies to access available funds under the Recovery Act; and

WHEREAS, the State of Missouri is committed to dedicating all necessary resources and expertise to maximize Missouri access to and results from Recovery Act funding and to ensure that the compliance requirements of the Recovery Act are met.

NOW THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the constitution and laws of the State of Missouri do hereby create the Transform Missouri Project ("Project").

Paul Wilson is appointed Director of the Project and will have supervisory authority over all aspects of its operations. The Office of Administration will provide administrative support to the Project.

The personnel assigned to the Transform Missouri Initiative pursuant to Executive Order 09-12 are hereby transferred to the Transform Missouri Project under the supervision of the Director. These individuals will constitute the implementation unit within the Project.

The Taxpayer Accountability, Compliance and Transparency Unit is hereby created within the Transform Missouri Project under the supervision of the Director. The Unit will be comprised of personnel from the following executive branch departments:

- Office of Administration
- Department of Agriculture
- Department of Corrections

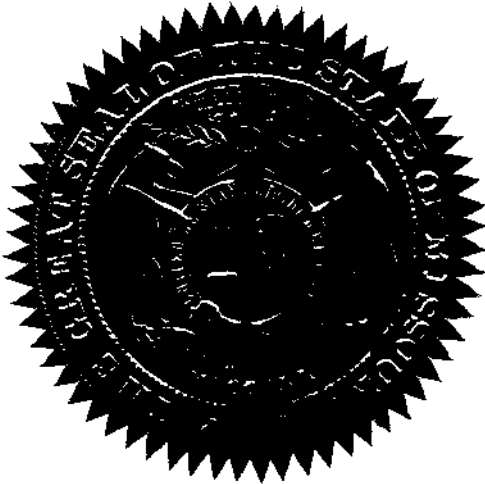
- Department of Economic Development
- Department of Elementary and Secondary Education
- Department of Health and Senior Services
- Department of Insurance, Financial Institutions and Professional Registration
- Department of Labor and Industrial Relations
- Department of Mental Health
- Department of Natural Resources
- Department of Public Safety
- Department of Revenue
- Department of Social Services
- Department of Transportation

The Director of each of the aforementioned executive branch departments will assign at least one individual with training and experience in fiscal management and compliance to this unit. The Unit will identify all compliance and certification requirements under the Recovery Act and develop procedures that satisfy those compliance and certification directives and ensure that the State of Missouri administers the Recovery Act in a transparent manner. The Commissioner of Administration will appoint a Certification Coordinator responsible for reviewing applications and compliance documentation.

Executive branch departments will coordinate all Recovery Act program applications, administration and expenditures through the Transform Missouri Project and will assign additional personnel to the Project when deemed necessary by the Director.

The Transform Missouri Project will exist until terminated by subsequent Executive Order.

Executive Order 09-12 is hereby rescinded.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 31st day of March, 2009.

A handwritten signature in black ink, appearing to read "Jeremiah W. (Jay) Nixon", written over a horizontal line.

Jeremiah W. (Jay) Nixon
Governor

ATTEST:

A handwritten signature in black ink, appearing to read "Robin Carnahan", written over a horizontal line.

Robin Carnahan
Secretary of State

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbolology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 5—Wildlife Code: Permits

PROPOSED RESCISSION

3 CSR 10-5.375 Resident Cable Restraint Permit. The commission proposes to rescind this rule.

PURPOSE: This rule is being rescinded as the Resident Cable Restraint Permit is being eliminated.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Oct. 9, 2003, effective March 30, 2004. For intervening history, please consult the Code of State Regulations. Rescinded: Filed March 23, 2009.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the

aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 6—Wildlife Code: Sport Fishing: Seasons, Methods, Limits

PROPOSED AMENDMENT

3 CSR 10-6.550 Other Fish. The commission proposes to amend subsection (2)(C) of the rule.

PURPOSE: This amendment permits bowfishing in commercial waters during all hours throughout the year and corrects an inconsistency in the Wildlife Code.

(2) Methods and Seasons:

(C) Fish included in this rule may be taken by bow from streams between sunrise and midnight and from impounded **and commercial** waters during all hours throughout the year; except that from February 1 through March 31 on impounded waters, fish may be taken by this method only between sunrise and midnight.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits

PROPOSED AMENDMENT

3 CSR 10-7.410 Hunting Methods. The commission proposes to amend subsection (1)(C) of this rule.

PURPOSE: This amendment adds thermal imagery equipment to the list of prohibited equipment while simultaneously in possession of any firearm, bow, or other implement whereby wildlife could be taken.

(1) Wildlife may be hunted and taken only in accordance with the following:

(C) **Night Vision and Thermal Imagery Equipment.** No person may possess or control night vision or thermal imagery equipment while acting singly or as one (1) of a group of persons while in possession of any firearm, bow, or other implement whereby wildlife could be killed or taken.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods,
Limits**

PROPOSED AMENDMENT

3 CSR 10-7.425 Squirrels: Seasons, Limits. The commission proposes to amend this rule.

PURPOSE: This amendment increases the daily limit and possession limit for squirrels from six (6) to ten (10) and twelve (12) to twenty (20), respectively.

Squirrels may be taken from the fourth Saturday in May through February 15. Daily limit: [six (6)] **ten (10)** squirrels; possession limit: [twelve (12)] **twenty (20)** squirrels.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Aug. 26, 1975, effective Dec. 31, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 8—Wildlife Code: Trapping: Seasons, Methods**

PROPOSED AMENDMENT

3 CSR 10-8.510 Use of Traps. The commission proposes to amend section (1) and subsection (4)(B) of this rule.

PURPOSE: This amendment removes the requirement of a cable restraint permit.

(1) Traps shall have smooth or rubber jaws only, and may include foot-hold traps, Conibear or other killing-type traps, foot-enclosing-type traps, cage-type traps, colony traps with openings no greater than six inches (6") in height and six inches (6") wide, or snares (as defined in 3 CSR 10-20.805) set under water only, and cable restraint devices (as defined in 3 CSR 10-20.805)[, but only with the prescribed permit]. Use of pitfalls, deadfalls, snares set in a dry land set, and nets are prohibited.

(4) Use of Snares and Cable Restraint Devices:

(B) Furbearers may be taken by trapping through the use of cable restraint devices during specified seasons (3 CSR 10-8.515) by [holders of a Cable Restraint Permit, after completing] **persons who have successfully completed** the cable restraint training course **taught by a certified instructor**. Cable restraint devices (as defined in 3 CSR 10-20.805) must have a loop size of twelve inches (12") in diameter or smaller when set, and the bottom of set restraint cable loop must be at least six inches (6") or greater above the ground. Cable restraint devices must be anchored solid or staked in a location not allowing entanglement (such as rooted, woody vegetation greater than one-half inch (1/2") in diameter), and shall not be capable of extending to within twelve inches (12") of a fence, nor shall be set using a drag, or used with a kill-pole. Cable restraint devices may not be used within one hundred fifty feet (150') of any residence, occupied building, or a driveway leading to a residence.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Sept. 20, 1957, effective Dec. 31, 1957. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 8—Wildlife Code: Trapping: Seasons, Methods**

PROPOSED AMENDMENT

3 CSR 10-8.515 Furbearers: Trapping Seasons. The commission proposes to amend section (1), delete sections (2) and (3), renumber subsequent sections, and amend renumbered sections (2), (5), and (6).

PURPOSE: This amendment removes otter and muskrat trapping zones, sets a statewide season and harvest quota, extends tagging deadline for bobcat and otter pelts, and removes the requirement for a cable restraint permit.

(1) Badger, bobcat, coyote, gray fox, mink, opossum, raccoon, red fox, and striped skunk may be taken in any numbers by trapping from November 15 through January 31. **Otter and muskrat may be taken in any number by trapping from November 15 through February 20.** Beaver and nutria may be taken in any number by trapping from November 15 through March 31. Traps may not be placed or set before November 15 and must be removed by midnight of the last day of the applicable trapping season.

[(2) *Otters and muskrats may be taken by trapping during specified seasons and in specified limits described below:*

(A) A season limit of five (5) otters, and muskrats in any numbers may be taken from November 15 through January 31 in Otter Management Zones A, C, and D, described as:

1. Otter Management Zone A—That portion of north-west Missouri from the Iowa border and west of a line running south on Worth County Hwy. F to Mo. Hwy. 46; south on Mo. Hwy. 46 to U.S. Hwy. 136; south on U.S. Hwy. 136 to U.S. Hwy. 169; south on U.S. Hwy. 169 to Mo. Hwy. 31; south on Mo. Hwy. 31 to U.S. Hwy. 36; east on U.S. Hwy. 36 to U.S. Hwy. 69; south on U.S. Hwy. 69 to Mo. Hwy. 10; east on Mo. Hwy. 10 to Mo. Hwy. 13; south on Mo. Hwy. 13 to Interstate Hwy. 70; west on Interstate Hwy. 70 to Mo. Hwy. 131; south on Mo. Hwy. 131 to Mo. Hwy. 2; west on Mo. Hwy. 2 to the Kansas line.

2. Otter Management Zone C—That portion of eastern Missouri east and south of a line running west from the Illinois border on Interstate Hwy. 270 to Interstate Hwy. 44; west on Interstate Hwy. 44 to Mo. Hwy. 68; south on Mo. Hwy. 68 to Mo. Hwy. 32; and north of a line comprised of Mo. Hwy. 32 east to St. Francois County Hwy. 00; south on St. Francois County Hwy. 00 to St. Francois County Hwy. T; east on St. Francois County Hwy. T to Mo. Hwy. 51; and west of Mo. Hwy. 51 to the Illinois line.

3. Otter Management Zone D—That portion of south-west Missouri west and south of a line running north from the Arkansas border on Mo. Hwy. 37 to U.S. Hwy. 60; east on U.S. Hwy. 60 to Mo. Hwy. 39; north on Mo. Hwy. 39 to U.S. Hwy. 160; west on U.S. Hwy. 160 to the Kansas line.

(B) *Otters and muskrat may be taken in any numbers from November 15 through February 20 in Otter Management Zone E, described as:*

1. Otter Management Zone E—That portion of south Missouri east and south of a line running north from the Arkansas border on Mo. Hwy. 37 to U.S. Hwy. 60; east on U.S. Hwy. 60 to Mo. Hwy. 39; north on Mo. Hwy. 39 to Interstate Hwy. 44; east on Interstate Hwy. 44 to U.S. Hwy. 65; east of a line running north on U.S. Hwy. 65 to Interstate Hwy. 70; south of a line running east on Interstate Hwy. 70 to the north bank of the Missouri River; east on the Missouri River to U.S. Hwy. 63; south on U.S. Hwy. 63 to Mo. Hwy. 68; south on Mo. Hwy. 68 to Mo. Hwy. 32; and south of a line comprised of Mo. Hwy. 32 to U.S. Hwy. 67; south on U.S. Hwy. 67 to Mo. Hwy. 32; east on Mo. Hwy. 32 to St. Francois County Hwy. 00; south on St. Francois County Hwy. 00 to St. Francois County Hwy. T; east on St. Francois County Hwy. T to Mo. Hwy. 51; and south and east of Mo. Hwy. 51 to the Illinois line.

(C) A season limit of twenty (20) otters and muskrats in any numbers may be taken from November 15 through January 31 in Otter Management Zone B, described as:

1. Otter Management Zone B—The remainder of the state not in Otter Management Zone A, C, D, or E, as described above.

(3) *Except in Otter Management Zone E, Conibear or other killing-type traps with a jaw spread less than eight inches (8") and foot-hold traps with an inside width at the jaw post less than six inches (6") are prohibited in water sets after January 31. In Otter Management Zone E, Conibear or other killing-type traps with a jaw spread less than eight inches (8") and foot-hold traps with an inside width at the jaw post less than six inches (6") are prohibited for trapping beavers after February 20.]*

[(4)](2) Except as provided in 3 CSR 10-10.711, pelts of furbearers may be possessed, transported, consigned for processing, and sold only by the taker from November 15 through February 15, pelts of beaver, **otters, muskrats, and nutria** may be possessed, transported, consigned for processing, and sold by the taker from November 15 through April 10, and tagged bobcats and otters or their pelts may be possessed and sold throughout the year. Bobcats **and otters** or their pelts shall be delivered by the taker to an agent of the department for registration or tagging[; *otters shall be delivered by the taker to an agent of the department only in the Otter Management Zone of harvest for registration or tagging*]. Bobcats and otters shall be registered or tagged before selling, transferring, tanning, or mounting not later than *[February 15, except for otters taken in Otter Management Zone E not later than March 4.] April 10*. It shall be illegal to purchase or sell untagged bobcats and otters or their pelts. Other pelts may be delivered or shipped and consigned by the taker to a licensed taxidermist or tanner before the close of the possession season for pelts. These pelts must be recorded by the taxidermist or tanner and shall not enter the raw fur market. After tanning, pelts may be possessed, bought, or sold without permit. Skinned carcasses of legally taken furbearers may be sold by the taker throughout the year. (Certain Department of Health and Senior Services rules also govern how furbearer carcasses might be utilized.)

[(5)](3) Rabbits may be taken by trap from November 15 through January 31 within prescribed hunting limits, but carcasses may not be sold.

[(6)](4) Restrictions on possession shall not apply to tanned pelts, mounted specimens, or manufactured products.

[(7)](5) Red fox, gray fox, and coyotes may be taken alive during established seasons by prescribed methods and held in captivity. They may not be exported and may only be sold or given to holders of a valid Hound Running Area Operator and Dealer Permit. Live coyotes, red fox, and gray fox may not be possessed after February 15. These animals may be held for no longer than seventy-two (72) hours after capture, except when confined in facilities and cared for as specified in 3 CSR 10-9.220, and after approval by an agent of the department. Complete and current records of all transactions must be maintained showing the county of origin, the species, date captured, date of transfer, and name and permit number of the hound running area operator/dealer receiving each individual animal. These records shall be kept on forms provided by the department and submitted to an agent of the department by April 15. Printed copies of these forms can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at www.missouriconservation.org. Records shall be made available for inspection by an authorized agent of the department at any reasonable time.

[(8)](6) Furbearers may be taken by trapping through the use of cable restraint devices from December 15 through January 31, by *[holders of a Cable Restraint Permit. This permit may be issued only to the holder of a Restraint Trapping Permit who has] persons who have successfully completed a cable restraint training course, validated by a certified instructor. Cable restraint devices must be used according to 3 CSR 10-8.510.*

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed July 23, 1974, effective Dec. 31, 1974. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife:
Privileges, Permits, Standards

PROPOSED AMENDMENT

3 CSR 10-9.110 General Prohibition; Applications. The commission proposes to amend subsection (3)(F).

PURPOSE: This amendment adds Atlantic salmon to the Approved Aquatic Species List.

(3) Fish, tiger salamander larvae, and crayfish may be bought, sold, transported, propagated, taken, and possessed by any person without permit throughout the year in any number or size and by any method providing—

(F) Approved Aquatic Species List:

1. Fishes.

- A. Shovelnose sturgeon (*Scaphirhynchus platyrhynchus*)
- B. Paddlefish (*Polyodon spathula*)
- C. Spotted gar (*Lepisosteus oculatus*)
- D. Longnose gar (*Lepisosteus osseus*)
- E. Shortnose gar (*Lepisosteus platostomus*)
- F. Bowfin (*Amia calva*)
- G. American eel (*Anguilla rostrata*)
- H. Gizzard shad (*Dorosoma cepedianum*)
- I. Threadfin shad (*Dorosoma petenense*)
- J. Rainbow trout (*Oncorhynchus mykiss*)
- K. Golden trout (*Oncorhynchus aquabonita*)
- L. Cutthroat trout (*Oncorhynchus clarkii*)
- M. Brown trout (*Salmo trutta*)
- N. Brook trout (*Salvelinus fontinalis*)
- O. Coho salmon (*Oncorhynchus kisutch*)
- P. Atlantic salmon (*Salmo salar*)**
- /P./Q.** Northern pike (*Esox lucius*)
- /Q./R.** Muskellunge (*Esox masquinongy*)
- /R./S.** Goldfish (*Carassius auratus*)
- /S./T.** Grass carp (*Ctenopharyngodon idella*)
- /T./U.** Common carp (*Cyprinus carpio*)
- /U./V.** Bighead carp (*Hypophthalmichthys nobilis*)
- /V./W.** Golden shiner (*Notemigonus crysoleucas*)
- /W./X.** Bluntnose minnow (*Pimephales notatus*)
- /X./Y.** Fathead minnow (*Pimephales promelas*)
- /Y./Z.** River carpsucker (*Carpiodes carpio*)
- /Z./AA.** Quillback (*Carpiodes cyprinus*)
- /AA./BB.** White sucker (*Catostomus commersoni*)
- /BB./CC.** Blue sucker (*Cycleptus elongatus*)

- /CC./DD.** Bigmouth buffalo (*Ictiobus cyprinellus*)
- /DD./EE.** Black bullhead (*Ameiurus melas*)
- /EE./FF.** Yellow bullhead (*Ameiurus natalis*)
- /FF./GG.** Brown bullhead (*Ameiurus nebulosus*)
- /GG./HH.** Blue catfish (*Ictalurus furcatus*)
- /HH./II.** Channel catfish (*Ictalurus punctatus*)
- /II./JJ.** Flathead catfish (*Pylodictis olivaris*)
- /JJ./KK.** Mosquitofish (*Gambusia affinis*)
- /KK./LL.** White bass (*Morone chrysops*)
- /LL./MM.** Striped bass (*Morone saxatilis*)
- /MM./NN.** Green sunfish (*Lepomis cyanellus*)
- /NN./OO.** Pumpkinseed (*Lepomis gibbosus*)
- /OO./PP.** Warmouth (*Lepomis gulosus*)
- /PP./QQ.** Orangespotted sunfish (*Lepomis humilis*)
- /QQ./RR.** Bluegill (*Lepomis macrochirus*)
- /RR./SS.** Longear sunfish (*Lepomis megalotis*)
- /SS./TT.** Redear sunfish (*Lepomis microlophus*)
- /TT./UU.** Smallmouth bass (*Micropterus dolomieu*)
- /UU./V.** Spotted bass (*Micropterus punctulatus*)
- /VV./WW.** Largemouth bass (*Micropterus salmoides*)
- /WW./XX.** White crappie (*Pomoxis annularis*)
- /XX./YY.** Black crappie (*Pomoxis nigromaculatus*)
- /YY./ZZ.** Yellow perch (*Perca flavescens*)
- /ZZ./AAA.** Sauger (*Sander canadensis*)
- /AAA./BBB.** Walleye (*Sander vitreus*)
- /BBB./CCC.** Freshwater drum (*Aplodinotus grunniens*)

2. Crustaceans.

- A. Freshwater prawn (*Macrobrachium rosenbergii*)
- B. Pacific white shrimp (*Litopenaeus vannamei*)
- C. Northern crayfish (*Orconectes virilis*)
- D. White river crayfish (*Procambarus acutus*)
- E. Red swamp crayfish (*Procambarus clarkii*)
- F. Papershell crayfish (*Orconectes immunis*)

3. Amphibians.

- A. Tiger salamander larvae (*Ambystoma tigrinum*)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule was previously filed as 3 CSR 10-4.110(5), (6), and (10). Original rule filed June 26, 1975, effective July 7, 1975. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges,
Permits, Standards

PROPOSED AMENDMENT

3 CSR 10-9.353 Privileges of Class I and Class II Wildlife Breeders. The commission proposes to remove sections (12), (13),

and (14) from this rule, renumber subsequent sections, and amend renumbered section (17).

PURPOSE: This amendment removes chronic wasting disease related regulations from the Code.

[(12)] All elk, elk-hybrids, mule deer, and white-tailed deer, defined as Class I wildlife in 3 CSR 10-9.230, introduced into a Class I wildlife breeder operation shall meet the following requirements:

(A) Animals shall be tagged or marked in a method allowing each individual animal to be uniquely identified.

(B) Animals must meet all state and federal chronic wasting disease testing requirements.

(C) Animals imported into Missouri must come from a herd that is enrolled and has achieved a status five (5) or higher in a United States Department of Agriculture approved or state-sponsored chronic wasting disease monitoring program—five (5) years of surveillance, advancement, and successful completion of program requirements.

(D) Animals from within Missouri must come from a herd comprised of animals enrolled in a United States Department of Agriculture approved or state-sponsored chronic wasting disease monitoring program.

(13) Effective January 1 of each year, one hundred percent (100%) of all elk, elk-hybrids, mule deer, and white-tailed deer, defined as Class I wildlife in 3 CSR 10-9.230, over twelve (12) months of age that die of any cause within a Class I wildlife breeder operation, shall be tested for chronic wasting disease at a federally approved laboratory, up to an annual total of ten (10) animals in the aggregate; except that one hundred percent (100%) of all elk, elk-hybrids, mule deer and white-tailed deer that are imported into Missouri that die of any cause within a Class I wildlife breeder operation shall be tested for chronic wasting disease at a federally approved laboratory.

(14) All permits issued by the state veterinarian's office allowing cervids to enter Missouri and all chronic wasting disease test results must be kept by the permittee and are subject to inspection by an agent of the department at any reasonable time. All test results documenting a positive case of chronic wasting disease shall be reported immediately to an agent of the department.]

[(15)](12) The holder of a Class I or Class II wildlife breeder permit may exhibit wildlife at locations other than those listed on the permit.

[(16)](13) Any sale, shipment, or gift of wildlife by a Class I or Class II wildlife breeder shall be accompanied by a written statement giving his/her permit number and showing the number of each species and the name and address of the recipient. No wildlife of any kind may be liberated unless specific permission has been granted on written application to the conservation agent in the county where the release is to be made.

[(17)](14) None of these privileges shall extend to permitting the act of hunting for such stock except that big game mammals may be killed for purposes of herd management by the permit holder or his/her agents, but only with authorization from an agent of the department.

[(18)](15) The holder of a Class I or Class II wildlife breeder permit shall report escaped animals immediately to an agent of the department.

[(19)](16) The holder of a Class I wildlife breeder permit may sell legally acquired game bird eggs or dressed or processed quail, pheasants, and partridges at retail and to commercial establishments under provisions of 3 CSR 10-10.743, provided all sales are accompanied by a valid invoice, and the required records are maintained by the wildlife breeder.

[(20)](17) Animal health standards and movement activities shall comply with all state and federal regulations. (Refer to Missouri Department of Agriculture for applicable Chronic Wasting Disease rules and regulations.)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule was previously filed as 3 CSR 10-10.755. Original rule filed Aug. 18, 1970, effective Dec. 31, 1970. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 9—Wildlife Code: Confined Wildlife: Privileges, Permits, Standards

PROPOSED AMENDMENT

3 CSR 10-9.442 Falconry. The commission proposes to amend subsection (2)(B) of this rule.

PURPOSE: This amendment increases the daily limit and possession limit for squirrels taken through falconry from two (2) to ten (10) and four (4) to twenty (20), respectively, and expands the season to February 15.

(2) Only designated types and numbers of birds of prey may be possessed and all these birds shall bear a numbered, nonreusable marker provided by the department. Birds held under a falconry permit may be used, without further permit, to pursue and take wildlife within the following seasons and bag limits:

(B) Squirrels may be taken from the *[Saturday before Memorial Day] fourth Saturday in May* to February *[1] 15*. Daily limit: *[two (2)] ten (10)* squirrels; possession limit: *[four (4)] twenty (20)* squirrels.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-7.442. Original rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges,
Permits, Standards**

PROPOSED AMENDMENT

3 CSR 10-9.565 Licensed Hunting Preserve: Privileges. The commission proposes to remove paragraphs (1)(B)2., 3., and 4. of this rule, renumber subsequent paragraphs, and amend renumbered paragraph (1)(B)4.

PURPOSE: This amendment removes chronic wasting disease related regulations from the Code.

(1) Licensed hunting preserves are subject to inspection by an agent of the department at any reasonable time. Animal health standards and movement activities shall comply with all state and federal regulations. Any person holding a licensed hunting preserve permit may release on his/her licensed hunting preserve only legally obtained and captive-reared: pheasants, exotic partridges, quail, mallard ducks, and ungulates (hoofed animals) for shooting throughout the year, under the following conditions:

(B) Big Game Hunting Preserve.

1. A big game hunting preserve for ungulates shall be a fenced single body of land, not dissected by public roads, and not less than three hundred twenty (320) acres and no more than three thousand two hundred (3,200) acres in size. The hunting preserve shall not be cross-fenced into portions of less than three hundred twenty (320) acres. The hunting preserve shall be fenced so as to enclose and contain all released game and exclude all hoofed wildlife of the state from becoming a part of the enterprise and posted with signs specified by the department. Fence height shall meet standards specified in 3 CSR 10-9.220. Fencing for hogs shall be constructed of twelve (12) gauge woven wire, at least five feet (5') high, and topped with one (1) strand of electrified wire. An additional two feet (2') of such fencing shall be buried and angled underground toward the enclosure interior. A fence of equivalent or greater strength and design to prevent the escape of hogs may be substituted with written application and approval by an agent of the department.

[2. All elk, elk-hybrids, mule deer, and white-tailed deer introduced into a big game hunting preserve shall meet the following requirements:

A. Animals shall be tagged or marked in a method allowing each individual animal to be uniquely identified.

B. Animals must meet all state and federal chronic wasting disease testing requirements.

C. Animals imported into Missouri must come from a herd that is enrolled and has achieved a status five (5) or higher in a United States Department of Agriculture approved or state-sponsored chronic wasting disease monitoring program—five (5) years of surveillance, advancement, and successful completion of program requirements.

D. Animals from within Missouri must come from a herd comprised of animals enrolled in a United States Department of Agriculture approved or state-sponsored chronic wasting disease monitoring program.

3. Effective January 1 of each year, one hundred percent (100%) of all elk, elk-hybrids, mule deer, and white-tailed deer over twelve (12) months of age that die of any cause within a big game hunting preserve operation, shall be tested for chronic wasting disease at a federally approved laboratory, up to an annual total of ten (10) animals in the aggregate; except that one hundred percent (100%) of all elk, elk-hybrids, mule deer and white-tailed deer that are imported into Missouri that die of any cause within a big game hunting preserve shall be tested for chronic wasting disease at a federally approved laboratory.

4. All permits issued by the state veterinarian's office allowing cervids to enter Missouri and all chronic wasting disease test results must be kept by the permittee and are subject to inspection by an agent of the department at any reasonable time. All test results documenting a positive case of chronic wasting disease shall be reported immediately to an agent of the department.]

[5.]2. The permittee may exercise privileges provided in 3 CSR 10-9.353 only for species held within breeding enclosure(s) contained within or directly adjacent to the big game hunting preserve. Any such breeding enclosure(s) shall meet standards specified in 3 CSR 10-9.220. Breeding enclosures may be separated from the hunting preserve by a public road, but must be directly adjacent. Other breeding enclosures not contained within or directly adjacent to the hunting preserve are not covered under the privileges of this rule.

[6.]3. Any person taking or hunting ungulates on a big game hunting preserve shall have in his/her possession a valid licensed hunting preserve hunting permit. The permittee shall attach to the leg of each ungulate taken on the hunting preserve a locking leg seal furnished by the department, for which the permittee shall pay ten dollars (\$10) per one hundred (100) seals. Any packaged or processed meat shall be labeled with the licensed hunting preserve permit number.

[7.]4. Animal health standards and movement activities shall comply with all state and federal regulations. (*Refer to Missouri Department of Agriculture for applicable Chronic Wasting Disease rules and regulations.*)

[8.]5. Big game hunting preserve permittees shall report escaped animals immediately to an agent of the department.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-10.765. Original rule filed Jan. 19, 1972, effective Feb. 1, 1972. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.110 General Provisions. The commission proposes to amend section (1) of this rule.

PURPOSE: This amendment clarifies that a special use permit is required to place a geocache or letterbox on a department area, but not to search for a geocache or letterbox placed on an area.

(1) The following activities are allowed on department areas only where and as authorized by this chapter or by signs and area brochures or by a special use permit issued by the area manager: swimming, sailboarding, sailboating, skateboarding, boating, entry on areas closed to public use, bicycling, camping, shooting, hunting, fishing, trapping, removal of water, commercial use, vending, fires outside of designated camping areas, rock collecting, digging and other soil disturbance, field trials, horseback riding, ranging of horses and other livestock, possession of pets and hunting dogs, caving, rock climbing, rappelling, paint-balling, scuba diving, water skiing, [geocaching and letterboxing] **placing a geocache or letterbox**, the use and possession of vehicles and aircraft, the use of decoys, and the use or construction of blinds and tree stands.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.155 Decoys and Blinds. The commission proposes to delete subsection (1)(B) of this rule.

PURPOSE: This amendment eliminates the special provisions for waterfowl blinds at Thomas Hill Reservoir, thereby subjecting the area to the provisions specified in section (1).

(1) Decoys and blinds are permitted but must be disassembled and removed daily, except as otherwise provided in this chapter. Blinds may be constructed on-site only from willows (*Salicaceae*) and non-woody vegetation.

[(B) On Thomas Hill Reservoir, waterfowl blinds may be constructed only on the Stinking Creek Arm and on the lake south of Highway T, but may not be locked, transferred, rented or sold. The builder must post his/her full name and address on the blind. After 6:00 a.m., unoccupied blinds may be used by the first hunter to arrive. Blind sites may not be claimed by staking or other means prior to September 1.

Blinds must be completely removed from the area before April 1 each year.]

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.160 Use of Boats and Motors. The commission proposes to amend paragraph (1)(A)1. of this rule.

PURPOSE: This amendment prohibits the use of float tubes at selected department-owned lakes.

(1) Boats (including sailboats) may be used on lakes and ponds except as further restricted in this chapter. Boats may not be left unattended overnight. Houseboats, and personal watercraft as defined in section 306.010, RSMo, are prohibited. Float tubes may be used for authorized fishing and hunting activities. Registration and a fee may be required for rental of department-owned boats. Fees may be paid prior to use.

(A) Except as provided below, only electric motors are permitted on lakes and ponds of less than seventy (70) acres. Electric motors and outboard motors are permitted on lakes of seventy (70) or more acres and on certain areas in conjunction with waterfowl hunting, except as otherwise provided in paragraph (1)(A)2. of this rule. Outboard motors in excess of ten (10) horsepower must be operated at slow, no-wake speed, except as otherwise provided in paragraph (1)(A)3. of this rule.

1. On August A. Busch Memorial Conservation Area, Blind Pony Lake Conservation Area, Hunnewell Lake Conservation Area, Lake Paho Conservation Area, and James A. Reed Memorial Wildlife Area, only department-owned boats may be used and only electric motors are permitted. **Use of float tubes is specifically prohibited.**

2. On Robert G. DeLaney Lake Conservation Area, only electric motors are permitted.

3. On Thomas Hill Reservoir, houseboats are prohibited at all times, and all boating is prohibited on the main arm of the lake above Highway T from October 15 through January 15. No other restrictions in this section apply to this area.

4. On Bellefontaine Conservation Area, boats are prohibited.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115.

Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.180 Hunting, General Provisions and Seasons. The commission proposes to amend sections (3) and (6) of this rule.

PURPOSE: This amendment corrects wording in section (3) regarding the Fall Deer and Turkey Hunting Regulations and Information booklet, making it consistent with the rest of the code and adds the Anthony and Beatrice Kendzora Conservation Area to the list of areas where firearms firing single projectiles are prohibited except during managed deer hunts or when using a twenty-two (.22) or smaller caliber rimfire firearm to take furbearers treed with the aid of dogs.

(3) Hunting is prohibited on public fishing access areas less than forty (40) acres in size except for deer hunting as authorized in the [2006] annual Fall Deer and Turkey Hunting Regulations and Information booklet. This publication is incorporated by reference. A copy of this booklet is published by and can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. It is also available online at www.missouriconservation.org. This rule does not incorporate any subsequent amendments or additions.

(6) Firearms firing single projectiles are prohibited, except during managed deer hunts, and except furbearers treed with the aid of dogs may be taken with a twenty-two (.22) or smaller caliber rimfire firearm on the following department areas:

(C) Anthony and Beatrice Kendzora Conservation Area

[(C)](D) Platte Falls Conservation Area

[(D)](E) Upper Mississippi Conservation Area (Dresser Island portion)

[(E)](F) Weldon Spring Conservation Area

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas**

PROPOSED AMENDMENT

3 CSR 10-11.186 Waterfowl Hunting. The commission proposes to amend section (3) of this rule.

PURPOSE: This amendment removes Long Branch Lake Management Lands from the list of areas that are closed to waterfowl hunting after 1:00 p.m.

(3) Waterfowl hunting is prohibited after 1:00 p.m. on designated portions of the following department areas:

[(M)] Long Branch Lake Management Lands/

[(N)](M) Nodaway Valley Conservation Area

[(O)](N) Otter Slough Conservation Area

[(P)](O) James A. Reed Memorial Wildlife Area

[(Q)](P) Pony Express Conservation Area

[(R)](Q) Schell-Osage Conservation Area

[(S)](R) Ted Shanks Conservation Area

[(T)](S) Ten Mile Pond Conservation Area

[(U)](T) Yellow Creek Conservation Area

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for
Areas Owned by Other Entities**

PROPOSED AMENDMENT

3 CSR 10-12.110 Use of Boats and Motors. The commission proposes to amend section (2) of this rule.

PURPOSE: *This amendment removes Bridgeton (Kiwanis Lake) from the rule.*

(2) Boats are prohibited on the following areas:

- [(B)]* **Bridgeton (Kiwanis Lake)**
- [(C)]* **(B)** California (Proctor Park Lake)
- [(D)]* **(C)** Cole County (Jaycee Park Lake)
- [(E)]* **(D)** Columbia (Antimi Lake, Cosmo-Bethel Lake, Lake of the Woods)
- [(F)]* **(E)** Confederate Memorial State Historic Site lakes
- [(G)]* **(F)** Dexter City Lake
- [(H)]* **(G)** Farmington (Giessing Lake, Hager Lake, Thomas Lake)
- [(I)]* **(H)** Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)
- [(J)]* **(I)** Ferguson (January-Wabash Park Lake)
- [(K)]* **(J)** Jackson (Rotary Lake)
- [(L)]* **(K)** Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Fleming Pond, Scherer Lake, Wyatt Lake)
- [(M)]* **(L)** James Foundation (Scioto Lake)
- [(N)]* **(M)** Jefferson City (McKay Park Lake)
- [(O)]* **(N)** Jennings (Koeneman Park Lake)
- [(P)]* **(O)** Kirksville (Spur Pond)
- [(Q)]* **(P)** Kirkwood (Walker Lake)
- [(R)]* **(Q)** Macon County (Fairgrounds Lake)
- [(S)]* **(R)** Mexico (Kiwanis Lake)
- [(T)]* **(S)** Mineral Area College (Quarry Pond)
- [(U)]* **(T)** Mount Vernon (Williams Creek Park Lake)
- [(V)]* **(U)** Overland (Wild Acres Park Lake)
- [(W)]* **(V)** Potosi (Roger Bilderback Lake)
- [(X)]* **(W)** Rolla (Schuman Park Lake)
- [(Y)]* **(X)** St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
- [(Z)]* **(Y)** St. Louis City (Benton Park Lake, Carondelet Park-Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park-North Lake, Willmore Park-South Lake)
- [(AA)]* **(Z)** St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Queeny Park Lake, Suson Park Lakes #1, #2, and #3, Tilles Park Lake, Veterans Memorial Park Lake)
- [(BB)]* **(AA)** Sedalia (Clover Dell Park Lake, Liberty Park Pond)
- [(CC)]* **(BB)** Taos (Taos Countryside Park Lake)
- [(DD)]* **(CC)** Tipton (Tipton Park Lake)
- [(EE)]* **(DD)** University of Missouri (South Farm R-1 Lake)
- [(FF)]* **(EE)** Watershed Committee of the Ozarks (Valley Water Mill Lake)

AUTHORITY: *sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.*

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for
Areas Owned by Other Entities**

PROPOSED AMENDMENT

3 CSR 10-12.115 Bullfrogs and Green Frogs. The commission proposes to amend subsection (1)(B) of this rule.

PURPOSE: *This amendment removes the City of Bridgeton's Kiwanis Lake from the rule.*

(1) Bullfrogs and green frogs may be taken during the statewide season only by hand, handnet, atlatl, gig, bow, snagging, snaring, grabbing, or pole and line except as further restricted by this chapter.

(B) Only pole and line may be used to take frogs on the following areas:

1. Ballwin (New Ballwin Park Lake, Vlasik Park Lake)
- [2.]* **Bridgeton (Kiwanis Lake)**
- [3.]* **2.** Butler City Lake
- [4.]* **3.** Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)
- [5.]* **4.** Ferguson (January-Wabash Park Lake)
- [6.]* **5.** Jennings (Koeneman Park Lake)
- [7.]* **6.** Kirksville (Spur Pond)
- [8.]* **7.** Kirkwood (Walker Lake)
- [9.]* **8.** Macon County (Fairground Lake)
- [10.]* **9.** Mineral Area College (Quarry Pond)
- [11.]* **10.** Overland (Wild Acres Park Lake)
- [12.]* **11.** Potosi (Roger Bilderback Lake)
- [13.]* **12.** St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
- [14.]* **13.** St. Louis City (Benton Park Lake, Carondelet Park-Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park-North Lake, Willmore Park-South Lake)
- [15.]* **14.** St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, Queeny Park Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes #1, #2, and #3, Tilles Park Lake, Veterans Memorial Park Lake)
- [16.]* **15.** Sedalia (Clover Dell Park Lake, Liberty Park Pond)
- [17.]* **16.** Sedalia Water Department (Spring Fork Lake)
- [18.]* **17.** Warrensburg (Lion's Lake)
- [19.]* **18.** Watershed Committee of the Ozarks (Valley Water Mill Lake)
- [20.]* **19.** Wentzville (Community Club Lake)
- [21.]* **20.** Windsor (Farrington Park Lake)

AUTHORITY: *sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.*

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments*

must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for
Areas Owned by Other Entities

PROPOSED AMENDMENT

3 CSR 10-12.125 Hunting and Trapping. The commission proposes to amend section (1) and subsections (1)(B) and (1)(D) of this rule.

*PURPOSE: This amendment removes Bridgeton (Kiwanis Lake) from the rule and corrects a reference to the **Fall Deer and Turkey Hunting Regulations and Information** booklet and allows bow hunting on city of Maysville property at Willow Brook Lake.*

(1) Hunting, under statewide permits, seasons, methods, and limits, is permitted except as further restricted in this chapter and except for deer hunting as authorized in the *[current] annual Fall Deer & Turkey Hunting Regulations and Information* booklet, published annually in August. This publication is incorporated by reference. A copy of this booklet can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. It is also available online at www.missouriconservation.org. This rule does not incorporate any subsequent amendments or additions.

(B) Hunting is prohibited on the following areas:

1. Thomas S. Baskett Wildlife Research and Education Center
2. Bethany (Old Bethany City Reservoir)
- [3. Bridgeton (Kiwanis Lake)]*
- [4.]3. Buchanan County (Gasper Landing)*
- [5.]4. California (Proctor Park Lake)*
- [6.]5. Carthage (Kellogg Lake)*
- [7.]6. Columbia (Antimi Lake, Cosmo-Bethel Lake, Lake of the Woods, Twin Lake)*
- [8.]7. Dexter City Lake*
- [9.]8. Farmington (Giessing Lake, Hager Lake, Thomas Lake)*
- [10.]9. Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)*
- [11.]10. Hamilton City Lake*
- [12.]11. Harrisonville (North Lake)*
- [13.]12. Jackson (Rotary Lake)*
- [14.]13. Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Fleming Pond, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)*
- [15.]14. James Foundation (Scioto Lake)*
- [16.]15. Jamesport City Lake*
- [17.]16. Kirksville (Spur Pond)*
- [18.]17. Lawson City Lake*
- [19.]18. Macon County (Fairground Lake)*
- [20.]19. Mexico (Lakeview Lake, Kiwanis Lake)*
- [21.]20. Mineral Area College (Quarry Pond)*
- [22.]21. Moberly (Rothwell Park Lake, Water Works Lake)*
- [23.]22. Mount Vernon (Williams Creek Park Lake)*
- [24.]23. Odessa (Lake Venita)*
- [25.]24. Overland (Wild Acres Park Lake)*
- [26.]25. Potosi (Roger Bilderback Lake)*
- [27.]26. Rolla (Schuman Park Lake)*
- [28.]27. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)*
- [29.]28. St. Louis County (Bee Tree Lake, Creve Coeur Lake, Simpson Lake, Spanish Lake, Sunfish Lake)*
- [30.]29. Savannah City Lake*
- [31.]30. Sedalia (Clover Dell Park Lake)*

- [32.]31. Sedalia Water Department (Spring Fork Lake)*
- [33.]32. Springfield City Utilities (Lake Springfield)*
- [34.]33. Warrensburg (Lion's Lake)*
- [35.]34. Watershed Committee of the Ozarks (Valley Water Mill Lake)*

[36.]35. Windsor (Farrington Park Lake)

(D) **Firearms** *[H]/*hunting is prohibited on Maysville (Willow Brook Lake), except waterfowl hunting is permitted under statewide regulations.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for
Areas Owned by Other Entities

PROPOSED AMENDMENT

3 CSR 10-12.135 Fishing, Methods. The commission proposes to amend section (3) of this rule.

PURPOSE: This amendment removes Bridgeton (Kiwanis Lake) from the rule.

(3) Gizzard shad may be taken from lakes and ponds by dip net or throw net, except at the following areas:

- [(B)] Bridgeton (Kiwanis Lake)]*
- [(C)](B) Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)*
- [(D)](C) Ferguson (January-Wabash Park Lake)*
- [(E)](D) Jennings (Koeneman Park Lake)*
- [(F)](E) Kirkwood (Walker Lake)*
- [(G)](F) Overland (Wild Acres Park Lake)*
- [(H)](G) St. Louis City (Benton Park Lake, Carondelet Park-Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park-North Lake, Willmore Park-South Lake)*
- [(I)](H) St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, Queeny Park Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes #1, #2, and #3, Tilles Park Lake, Veterans Memorial Park Lake)*

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for
Areas Owned by Other Entities**

PROPOSED AMENDMENT

3 CSR 10-12.140 Fishing, Daily and Possession Limits. The commission proposes to amend sections (2) and (11) of this rule.

PURPOSE: This amendment removes the City of Bridgeton's Kiwanis Lake from this rule.

(2) The daily limit for black bass is two (2) on the following lakes:

[(D)](D) Bridgeton (Kiwanis Lake)
[(E)](D) Butler City Lake
[(F)](E) California (Proctor Park Lake)
[(G)](F) Columbia (Stephens Lake, Twin Lake)
[(H)](G) Concordia (Edwin A. Pape Lake)
[(I)](H) Confederate Memorial State Historic Site lakes
[(J)](I) Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)
[(K)](J) Ferguson (January-Wabash Lake)
[(L)](K) Higginsville City Lake
[(M)](L) Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)
[(N)](M) Jefferson City (McKay Park Lake)
[(O)](N) Jennings (Koeneman Park Lake)
[(P)](O) Keytesville (Maxwell Taylor Park Pond)
[(Q)](P) Kirkwood (Walker Lake)
[(R)](Q) Mexico (Teal Lake)
[(S)](R) Mineral Area College (Quarry Pond)
[(T)](S) Overland (Wild Acres Park Lake)
[(U)](T) Potosi (Roger Bilderback Lake)
[(V)](U) Sedalia Water Department (Spring Fork Lake)
[(W)](V) St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
[(X)](W) St. Louis City (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park-North Lake, Willmore Park-South Lake)
[(Y)](X) St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, Queeny Park Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes No. 1, 2, and 3, Tilles Park Lake, Veteran's Memorial Park Lake)
[(Z)](Y) Unionville (Lake Mahoney)
[(AA)](Z) University of Missouri (South Farm R-1 Lake)
[(BB)](AA) Warrensburg (Lion's Lake)
[(CC)](BB) Watkins Mill State Park Lake
[(DD)](CC) Wentzville (Community Club Lake)
[(EE)](DD) Windsor (Farrington Park Lake)

(11) The daily limit for fish other than those species listed as endangered in 3 CSR 10-4.111 or defined as game fish is twenty (20) in the aggregate, except on the following lakes where the daily limit is ten (10) in the aggregate, and except for those fish included in (4), (8), (9), and (10) of this rule:

[(B)](B) Bridgeton (Kiwanis Lake)
[(C)](B) Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)
[(D)](C) Ferguson (January-Wabash Lake)
[(E)](D) Jennings (Koeneman Park Lake)
[(F)](E) Keytesville (Maxwell Taylor Park Pond)
[(G)](F) Kirkwood (Walker Lake)
[(H)](G) Mineral Area College (Quarry Pond)
[(I)](H) Overland (Wild Acres Park Lake)
[(J)](I) Potosi (Roger Bilderback Lake)
[(K)](J) St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
[(L)](K) St. Louis City (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park-North Lake, Willmore Park-South Lake)
[(M)](L) St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, Queeny Park Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes No. 1, 2, and 3, Tilles Park Lake, Veteran's Memorial Park Lake)
[(N)](M) Wentzville (Community Club Lake)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for
Areas Owned by Other Entities**

PROPOSED AMENDMENT

3 CSR 10-12.145 Fishing, Length Limits. The commission proposes to amend subsection (2)(C) of this rule.

PURPOSE: This amendment removes Bridgeton (Kiwanis Lake) from the rule.

(2) Black bass more than twelve inches (12") but less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught, except as follows:

(C) Black bass less than eighteen inches (18") total length must be returned to the water unharmed immediately after being caught on the following lakes:

1. Ballwin (New Ballwin Lake, Vlasik Park Lake)

- [2. *Bridgeton (Kiwanis Lake)*
 [3.]2. Columbia (Twin Lake)
 [4.]3. Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)
 [5.]4. Ferguson (January-Wabash Lake)
 [6.]5. Jennings (Koeneman Park Lake)
 [7.]6. Kirkwood (Walker Lake)
 [8.]7. Overland (Wild Acres Park Lake)
 [9.]8. Sedalia Water Department (Spring Fork Lake)
 [10.]9. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
 [11.]10. St. Louis City (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park-North Lake, Willmore Park-South Lake)
 [12.]11. St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, Queeny Park Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes No. 1, 2, and 3, Tilles Park Lake, Veteran's Memorial Park Lake)
 [13.]12. Unionville (Lake Mahoney)
 [14.]13. University of Missouri (South Farm R-1 Lake)
 [15.]14. Wentzville (Community Club Lake)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David W. Erickson, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

PROPOSED RESCISSION

4 CSR 240-3.240 Gas Utility Small Company Rate Increase Procedure. This rule provided procedures and filing requirements for small gas utilities seeking a rate increase.

PURPOSE: This rule is being rescinded because it has been superseded by 4 CSR 240-3.050.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed March 26, 2009.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before June 2, 2009, and should include a reference to Commission Case No. AX-2005-0363. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rescission is scheduled for June 2, 2009, at 2:00 p.m. in Room 305 of the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

PROPOSED RESCISSION

4 CSR 240-3.330 Sewer Utility Small Company Rate Increase Procedure. This rule provided procedures and filing requirements for small sewer utilities seeking a rate increase.

PURPOSE: This rule is being rescinded because it has been superseded by 4 CSR 240-3.050.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed March 26, 2009.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before June 2, 2009, and should include a reference to Commission Case No. AX-2005-0363. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rescission is scheduled for June 2, 2009, at 2:00 p.m. in Room 305 of the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri

Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

PROPOSED RESCISSION

4 CSR 240-3.440 Small Steam Heating Utility Rate Case Procedure. This rule provided procedures and filing requirements for small steam utilities seeking a rate increase.

PURPOSE: This rule is being rescinded because it has been superseded by 4 CSR 240-3.050.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000, and 393.291, RSMo Supp. 2003. Original rule filed Sept. 22, 2003, effective April 30, 2004. Rescinded: Filed March 26, 2009.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before June 2, 2009, and should include a reference to Commission Case No. AX-2005-0363. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rescission is scheduled for June 2, 2009, at 2:00 p.m. in Room 305 of the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

PROPOSED RESCISSION

4 CSR 240-3.635 Water Utility Small Company Rate Increase Procedure. This rule provided procedures and filing requirements for small water utilities seeking a rate increase.

PURPOSE: This rule is being rescinded because it has been superseded by 4 CSR 240-3.050.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed March 26, 2009.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before June 2, 2009, and should include a reference to Commission Case No. AX-2005-0363. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rescission is scheduled for June 2, 2009, at 2:00 p.m. in Room 305 of the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical
Regulations**

PROPOSED AMENDMENT

[10 CSR 20-10.010] 10 CSR 26-2.010 Applicability. The department is moving the rule, amending sections (1), (3), and (4), and adding sections (5)–(8).

PURPOSE: The rule number and the rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the **Code of State Regulations**. The authority for the rule is amended to reflect the actual and appropriate authority. Language is added at section (5) to explain when compliance with rules 10 CSR 26-2.075–10 CSR 26-2.082 is required, and language is added at section (6) to explain when compliance with 10 CSR 26-2.062 is required. Language is added at section (7) to explain when the requirements of the chapter are applicable to temporarily closed underground storage tanks. Language is added at section (8) to explain that owners and operators of closed underground storage tanks, or for which a change in use occurs prior to the effective date of 10 CSR 26-2.075, must comply with the requirements of the chapter.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more

than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) The requirements of this chapter apply to all owners and operators of an underground storage tank (UST) system as defined in [10 CSR 20-10.012] 10 CSR 26-2.012, except as otherwise provided in sections (2)-(4)/(8) of this rule. Any UST system listed in section (3) of this rule must meet the requirements of [10 CSR 20-10.011] 10 CSR 26-2.011.

(3) [Deferrals.] Rules [10 CSR 20-10.020–10 CSR 20-10.053] 10 CSR 26-2.020–10 CSR 26-2.053 and closure requirements in [10 CSR 20-10.070–10 CSR 20-10.074] 10 CSR 26-2.060–10 CSR 26-2.064 do not apply to any of the following types of UST systems:

(4) [Deferrals.] The release detection requirements of rules [10 CSR 20-10.040–10 CSR 20-10.045] 10 CSR 26-2.040–10 CSR 26-2.045 do not apply to any UST systems that store fuel solely for use by emergency power generators.

(5) Owners and operators of UST systems from which a release of regulated substances has occurred and to which this chapter applies need not meet the risk-based corrective action requirements of rules 10 CSR 26-2.075 through 10 CSR 26-2.082 otherwise applicable to the release if—

(A) Prior to the effective date of 10 CSR 26-2.075, the owner or operator had received the department's written approval of a work plan pertaining to the UST system release;

(B) The owner or operator fully implements the work plan referenced at section (5)(A) of this rule within one (1) year of the effective date of 10 CSR 26-2.075 or in accordance with a different schedule approved by the department in writing; and

(C) In addressing the UST system release, the owner or operator complies with a written procedure or procedures that address the basic elements of the risk-based process including site characterization, risk assessment, and corrective action to an extent that provides adequate protection of human health and the environment, subject to approval of the department.

1. If the owner or operator fails to adequately address any of the basic elements, the department may require the owner or operator to meet all applicable risk-based corrective action requirements of rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

2. A written procedure that complies with the department's *Missouri Risk-Based Corrective Action (MRBCA) Process for Petroleum Storage Tanks* guidance document dated January 2004, as modified in March 2005, without later amendments or modifications, published by and available from the Missouri Department of Natural Resources, PO Box 176, Jefferson City, MO 65102-0176 or at www.dnr.mo.gov and the Title 10, Division 20, Chapter 10 rules in place immediately prior to the effective date of 10 CSR 26-2.075 satisfies the requirements for this deferral.

(6) Owners and operators of USTs to which this chapter applies need not meet the requirements of 10 CSR 26-2.062 if—

(A) Prior to the effective date of 10 CSR 26-2.075, the owner or operator has submitted a closure notice for one or more specific tanks to the department in compliance with 10 CSR 26-2.061(1) (formerly 10 CSR 20-10.071(1)) but has not yet begun or completed closure or change in service activities for the specific tank or tanks required by 10 CSR 26-2.060 (formerly 10 CSR 20-10.070), 10 CSR 26-2.061 (formerly 10 CSR 20-10.071), or 10 CSR 26-2.062 (formerly 10 CSR 20-10.072);

(B) For the tank(s) that is the subject of the closure notice referenced at subsection (6)(A) of this rule, the owner or operator completes closure or change in use activities and submits a complete closure report in accordance with 10 CSR 26-2.062(10)

within one (1) year of the effective date of 10 CSR 26-2.075 or in accordance with a different schedule approved by the department in writing; and

(C) The owner or operator closes the tank or conducts a change in use evaluation in compliance with a written procedure that addresses the basic elements of a tank closure or change in service evaluation to an extent that provides adequate protection of human health and the environment, subject to approval of the department.

1. If the owner or operator fails to adequately address any of the basic elements, the department may require the owner or operator to meet all requirements of 10 CSR 26-2.062;

2. A written procedure that complies with department's *Missouri Risk-Based Corrective Action (MRBCA) Process for Petroleum Storage Tanks* guidance document dated January 2004, as modified in March 2005, without later amendments or modifications, published by and available from the Missouri Department of Natural Resources, PO Box 176, Jefferson City, MO 65102-0176 or at www.dnr.mo.gov and the Title 10, Division 20, Chapter 10 rules in place immediately prior to the effective date of 10 CSR 26-2.075 satisfies the requirements for this deferral.

(7) Temporarily Closed Tanks. Owners and operators of a UST to which this chapter applies that is in temporary closure in compliance with the requirements of 10 CSR 26-2.060 on the effective date of 10 CSR 26-2.075 and that is subsequently permanently closed or for which a change in service occurs must comply with the requirements of this chapter.

(8) Except as provided for at section (6) above, owners and operators of USTs to which this chapter applies that are permanently closed or for which a change in service occurs after the effective date of 10 CSR 26-2.075 must comply with the requirements of this chapter.

AUTHORITY: sections 319.100, 319.105, 319.107, 319.111, and 319.114, RSMo [1994] 2000 and sections 260.370, 319.109, [319.132] and 319.137, RSMo Supp. [1995] 2008. This rule originally filed as 10 CSR 20-10.010. Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Jan. 2, 1996, effective Aug. 30, 1996. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.011] **10 CSR 26-2.011 Interim Prohibition for Deferred Underground Storage Tank Systems.** The department is moving the rule and amending sections (1) and (2).

PURPOSE: The rule number and the rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the **Code of State Regulations**. The authority for the rule is amended to reflect the actual and appropriate authority, and section (2) is amended to change the term “site” to “facility” to clarify the intent of the section.

(1) No person may install an underground storage tank (UST) system listed in [10 CSR 20-10.010(3)] **10 CSR 26-2.010(3)** for the purpose of storing regulated substances unless the UST system (whether of single- or double-wall construction)—

(2) Notwithstanding section (1) of this rule, a UST system without corrosion protection may be installed at a */site/* **facility** that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life. Owners and operators must maintain records that demonstrate compliance with the requirements of this section for the remaining life of the tank.

AUTHORITY: section[s] 319.105, RSMo [Supp. 1989] 2000 and [644.041, RSMo 1986] section 319.137, RSMo Supp. 2008. This rule originally filed as 10 CSR 20-10.011. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.012] **10 CSR 26-2.012 Definitions.** The department is moving the rule and amending section (1).

PURPOSE: This rule defines specific words used in this chapter and is being amended to define words found in proposed new and amended rules in the chapter.

PUBLISHER’S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) Many definitions relevant to this rule are set forth in the underground storage tank law in section 319.100, RSMo. The definitions set forth in 40 CFR 280.12, July 1, 1998, **without later amendments or additions, published by the Office of the Federal Register, National Archives and Records Administration and available from the Superintendent of Documents, PO Box 371954, Pittsburgh, PA 15250-7954 or at www.gpoaccess.gov/nara**, are incorporated by reference, subject to the following additions, modifications, substitutions, or deletions in the subsections:

(A) Definitions beginning with the letter A. *[(Reserved)]*

1. “**Activity and use limitation**” means a complete physical barrier or mechanism, or an enforceable legal restriction or obligation with respect to real property, that will protect human health, public welfare, and the environment from contamination present on the property for as long as the contamination may pose unacceptable risk. Examples include restrictive covenants and local ordinances accompanied by a memorandum of agreement between the local governmental body and the department.

2. “**Age-adjusted individual**” means a human who continuously resides on a property from birth to thirty (30) years of age.

3. “**Applicable target level**” means one (1) of the following for each chemical of concern:

A. Default target level as defined below;

B. Risk-based target level as defined below for tier 1 purposes; or

C. Site-specific target level as defined below for tier 2 or tier 3 purposes;

(C) Definitions beginning with the letter C.

1. “**Cancer slope factor**” means an upper bound estimate, approximating a ninety-five percent (95%) confidence limit, of the increased cancer risk from a lifetime exposure to a chemical expressed in units of proportion per unit dose (mg/kg-day).

[1.]2. To the definition of “CERCLA” at 40 CFR 280.12, incorporated in this rule, add the words “by the Superfund Amendments and Reauthorization Act of 1986” after the words “as amended”;

3. “**Child**” means a human who continuously resides on a property from birth to six (6) years of age;

(D) Definitions beginning with the letter D.

1. “**Deed notice**” means information filed with the local recorder of deeds and recorded in the chain of title for an affected property, which describes the appropriate use and condition of the property.

2. “**Default target level**” means the concentration of a chemical of concern that is the lowest of the tier 1 risk-based target levels for all exposure pathways and below which human receptors are protected from all complete exposure pathways for residential or other unrestricted land use. For each contaminant of concern, the default target level shall be either:

A. The target level shown in Table 3-1 of the *Missouri Risk-Based Corrective Action (MRBCA) Process for Petroleum Storage Tanks* guidance document published by the Department

of Natural Resources, PO Box 176, Jefferson City, Missouri 65102-0176, dated January 2009 without any later amendments or additions, which is hereby incorporated by reference; or

B. A different value if the department determines in writing that a deviation is appropriate based on changes in the scientific data used to calculate such default target level.

[1./2. “De minimus” means—

A. Any volume of regulated substance(s) contained in a tank with a capacity of less than one hundred ten (110) gallons; or

B. A very low concentration of regulated substances; or

C. Any volume of regulated substance(s) contained in an emergency backup tank that holds regulated substances for only a short period of time and is expeditiously emptied after use. (Comment: De minimus tanks include: swimming pools, permitted wastewater treatment facilities, and chlorinated, potable water storage tanks. An oil-water separator is not a de minimus system unless the tank has a less than one hundred ten (110) gallon capacity.)

[2./3. “Department,” unless otherwise stated, means the Missouri Department of Natural Resources;

(E) Definitions beginning with the letter E.

1. “Engineered control” means an engineered and constructed physical mechanism to prevent direct human or environmental exposure to chemicals of concern. Examples include surface and subsurface barriers and vapor collection and control systems.

[1./2. In the definition for “existing tank system” in 40 CFR 280.12 incorporated in this rule, substitute the date “September 28, 1990” for the date “December 22, 1988”;

3. “Exposure domain” means the area of environmental media that contributes to actual or potential exposure by a receptor to chemicals of concern at a site;

(H) Definitions beginning with the letter H.

1. This definition shall apply in lieu of the definition of “hazardous substance UST system” in 40 CFR 280.12 incorporated in this rule. “Hazardous substance UST system” means a UST system that contains a hazardous substance defined in Section 101(14) of the CERCLA (but not including any substance regulated as a hazardous waste under the Missouri Hazardous Waste Management Law, sections 260.350–260.434, RSMo) or any mixture of these substances and petroleum, and which is not a petroleum UST system;

2. “Hazard quotient” means the ratio of an exposure level to a chemical to a non-carcinogenic toxicity value for that chemical;

(I) Definitions beginning with the letter I.

1. The definition for “implementing agency” in 40 CFR 280.12 is not incorporated into this rule.

2. “Individual excess lifetime cancer risk” means the increase over background in an individual’s probability of developing cancer over a lifetime due to exposure to a chemical.

3. “Inhalation unit risk” means the increase in the lifetime risk of an individual who is exposed for a lifetime to one (1) microgram per cubic meter ($\mu\text{g}/\text{m}^3$) of a chemical in air.

[2./4. The terms “in-operation,” “in-service,” and “in-use” are equivalent and mean input or output that occurs on a regular basis for the tank’s intended purpose. In determining the status of a tank, the department may consider factors including, but not limited to: routine input or outputs from the tank and the activity status of tank-related operations at the premises where the tank is located. A tank is considered to be in-operation, in-service, and in-use beginning with the first input of a regulated substance into the tank system;

(L) Definitions beginning with the letter L. [(Reserved);]

1. “Light non-aqueous phase liquids” (LNAPL) means liquids that are sparingly soluble in, immiscible with, and less dense than water. When released into the environment, LNAPL will exist in both mobile (or free) and immobile (or entrapped) states.

2. “Long-term stewardship measure” means department-approved legal or physical restrictions or limitations, as well as informational devices, designed to eliminate or minimize the risk of exposures to chemicals of concern associated with the use of,

or access to, a tank system, site, or facility, or to prevent activities that could interfere with the effectiveness of a response action, for the duration of time that the chemicals pose an elevated risk. All long-term stewardship measures are intended to ensure maintenance of a condition of acceptable risk to human health and the environment. Long-term stewardship measures include, but are not necessarily limited to, any one (1) or more of the following upon approval by the department:

A. Activity and use limitations;

B. Engineered controls accompanied by activity and use limitations;

C. Informational devices, such as—

(I) Deed notices designed to alert actual and potential owners of a property of the environmental condition of the property and to describe property uses and activities associated with acceptable risk in light of those conditions; or

(II) Information management systems, if available and approved by the department;

(M) Definitions beginning with the letter M. [(Reserved);]

1. “Maximum contaminant level” means the maximum permissible level of a contaminant in drinking water;

(O) Definitions beginning with the letter O.

1. In the definition for “operational life” in 40 CFR 280.12 incorporated in this rule, substitute “[10 CSR 20-10.070–10 CSR 20-10.074] 10 CSR 26-2.060–10 CSR 26-2.064” for “Subpart G.”

2. The term “out-of-operation,” “out-of-service,” and “out-of-use” are equivalent and mean input or output activity no longer occurs on a regular basis for the tank’s intended purpose.

3. The definition for “owner” in 40 CFR 280.12, is not incorporated in this rule and the definition in section 319.100(9), RSMo, shall be used instead;

(R) Definitions beginning with the letter R.

1. “Reference concentration” means an estimate, with uncertainty spanning perhaps an order of magnitude, of a continuous inhalation exposure to the human population, including sensitive subgroups, that is likely to be without an appreciable risk of deleterious effects during a lifetime;

2. “Reference dose” means an estimate, with uncertainty spanning perhaps an order of magnitude, of a daily oral exposure to the human population, including sensitive subgroups, that is likely to be without an appreciable risk of deleterious effects during a lifetime;

[1./3. The definition for “regulated substance” in 40 CFR 280.12 is not incorporated in this rule, and the definition in section 319.100(14), RSMo, shall be used instead;

[2./4. The definition for “release” in 40 CFR 280.12 is not incorporated in this rule, and the definition in section 319.100(15), RSMo, shall be used instead;

5. “Restrictive covenant” means a servitude creating legal restrictions or obligations with respect to real property related to contamination resulting from a release from a petroleum storage tank as defined in section 319.100, RSMo;

6. “Risk-based target level” means the pathway and chemical-specific concentration of a chemical of concern in an environmental medium that meets an acceptable human health risk level. Risk-based target levels are calculated by the department using standard models and default exposure factors, toxicity factors, physical and chemical properties, and contaminant fate and transport parameters and are applicable at tier 1 of the risk-based corrective action process. For each contaminant of concern, the risk-based target level shall be either:

A. The risk-based target level shown in Tables 7-1(a) through 7-12 of the *Missouri Risk-Based Corrective Action (MRBCA) Process for Petroleum Storage Tanks* guidance document published by the Department of Natural Resources, PO Box 176, Jefferson City, Missouri 65102-0176, dated January 2009 without any later amendments or additions, which are hereby

incorporated by reference; or

B. A different value if the department determines in writing that a deviation is appropriate based on changes in the scientific data used to calculate such risk-based target level;

(S) Definitions beginning with the letter S.

1. In lieu of the definition for "septic tank" in 40 CFR 280.12, the definition for "septic tank" shall be any watertight, covered receptacle designed and constructed to receive the discharge of sewage, separate solids from liquid, digest organic matter, store liquids through a period of detention, and allow the clarified liquids to discharge to a soil treatment system;

2. "Site" means the current and future areal extent of contamination resulting from a petroleum release inclusive of contamination both on the property at which the contamination originated (i.e., the source property) and on all adjacent and neighboring properties onto which such contamination has or is likely to migrate;

3. "Site-specific target level" means pathway and chemical specific calculated risk-based target levels that are based on site-specific data and an acceptable risk level considered protective of human health and the environment.

A. Site-specific target levels calculated at tier 2 of the risk-based corrective action process using site-specific fate and transport data and the toxicity factors, physical and chemical properties, and exposure factors found in tables B-1, B-2, and B-3, respectively, and default models at Figures B.1 through B.30 found in appendix B of the January 2009 *Missouri Risk-Based Corrective Action (MRBCA) Process for Petroleum Storage Tanks* guidance document published by the Department of Natural Resources, PO Box 176, Jefferson City, Missouri 65102-0176, dated January 2009 without any later amendments or additions, which are hereby incorporated by reference and are applicable unless the department determines in writing that a deviation is appropriate based on changes in the scientific data used to calculate the site-specific target levels;

B. Site-specific target levels calculated at tier 3 of the risk-based corrective action process using default, literature-derived, and/or site-specific exposure factors, physical and chemical properties, toxicity factors, and fate and transport data and default, alternative or a combination of default and alternative models are applicable unless the department determines or has determined that a deviation is appropriate based on changes in the scientific data used to calculate the site-specific target levels;

4. "Soil horizon" means a layer of soil having distinct characteristics and varying from adjacent layers;

5. "Source property" means the property on which contamination from a petroleum storage tank originated;

6. "Subsurface soil" means soil and other geologic materials below a depth of thirty-six inches (36") from the ground surface;

7. "Surficial soil" means soil from the ground surface to a depth of thirty-six inches (36");

(U) Definitions beginning with the letter U.

1. In the definition of "upgrade" in 40 CFR 280.12 incorporated in this rule, substitute the words "regulated substance" for the word "product."

2. The definition for "underground storage tank" or "UST" found in 40 CFR 280.12 is not incorporated in this rule, and the definition in section 319.100(16), RSMo, shall be used instead;

3. "Underground storage tank facility" means a facility that has or had one (1) or more petroleum underground storage tanks, as defined in section 319.100, RSMo;

AUTHORITY: sections 319.100, 319.105, 319.107, 319.111, and 319.114, RSMo [1994] 2000 and [319.100,] sections 319.109[, 319.132] and 319.137, RSMo Supp. [1998] 2008. This rule originally filed as 10 CSR 20-10.012. Original rule filed April 2, 1990, effective Sept. 28, 1990. For intervening history, please consult the Code of State Regulations. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical
Regulations**

PROPOSED AMENDMENT

[10 CSR 20-10.020] 10 CSR 26-2.020 Performance Standards for New Underground Storage Tank Systems. The department is moving the rule and amending section (1).

PURPOSE: The rule number and the rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the Code of State Regulations. The authority for the rule is amended to reflect the actual and appropriate authority. Terms in subparagraphs (1)(A)4.A. and (1)(B)4.A. are amended for consistency and to clarify intent.

(1) In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the underground storage tank (UST) system is used to store regulated substances, all owners and operators of new UST systems must meet the following requirements:

(A) Tanks. Each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion, in accordance with a code of practice developed by a nationally-recognized association or independent testing laboratory as follows:

1. The tank is constructed of fiberglass-reinforced plastic and complies with one (1) or more of the following industry codes:

A. Underwriters' Laboratories Standard 1316, *Standard for Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products*; or

B. American Society of Testing and Materials Standard D4021-86, *Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks*; or

2. The tank is constructed of steel and cathodically protected in the following manner:

A. The tank is coated with a suitable dielectric material;

B. Field-installed cathodic protection systems are designed by a corrosion expert;

C. Impressed current systems are designed to allow determination of current operating status as required in *[10 CSR 20-10.031/10 CSR 26-2.031(1)(C)]*;

D. Cathodic protection systems are operated and maintained in accordance with *[10 CSR 20-10.031/ 10 CSR 26-2.031]* or according to guidelines established by the department; and

E. The following codes and standards may be used to comply with paragraph (1)(A)2. of this rule:

(I) Steel Tank Institute *Specification for STI-P3 System of External Corrosion Protection of Underground Steel Storage Tanks*;

(II) Underwriters' Laboratories Standard 1746, *Corrosion Protection Systems for Underground Storage Tanks*;

(III) National Association of Corrosion Engineers Standard RP-02-85, *Control of External Corrosion on Metallic Buried, Partially Buried or Submerged Liquid Storage Systems*;

(IV) Underwriters' Laboratories Standard 58, *Standard for Steel Underground Tanks for Flammable and Combustible Liquids*;

3. The tank is constructed of a steel, fiberglass-reinforced plastic composite that complies with one (1) of the following industry codes:

A. Underwriters' Laboratories Standard 1746, *Corrosion Protection Systems for Underground Storage Tanks*; or

B. The Association for Composite Tanks ACT-100, *Specification for the Fabrication of FRP Clad Underground Storage Tanks*;

4. The tank is constructed of metal without additional corrosion protection measures provided that—

A. The tank is installed at a *[site] facility* that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life; and

B. Owners and operators maintain records that demonstrate compliance with the requirements of subparagraph (1)(B)4.A. of this rule for the remaining life of the tank; or

5. The tank construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than paragraphs (1)(A)1.-4. of this rule;

(B) Piping. The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as follows:

1. The piping is constructed of fiberglass-reinforced plastic;

2. The following codes and standards may be used to comply with paragraph (1)(B)1. of this rule:

A. Underwriters' Laboratories Subject 971, *UL Listed Non-Metal Pipe*; and

B. Underwriters' Laboratories Standard 567, *Pipe Connectors for Flammable and Combustible and LP Gas*;

3. The piping is constructed of steel and cathodically protected in the following manner:

A. The piping is coated with a suitable dielectric material;

B. Field-installed cathodic protection systems are designed by a corrosion expert;

C. Impressed current systems are designed to allow determination of current operating status as required in *[10 CSR 20-10.031/10 CSR 26-2.031(1)(C)]*;

D. Cathodic protection systems are operated and maintained in accordance with *[10 CSR 20-10.031/ 10 CSR 26-2.031]*; and

E. The following codes and standards may be used to comply with paragraph (1)(B)3. of this rule:

(I) National Fire Protection Association Standard 30, *Flammable and Combustible Liquids Code*;

(II) American Petroleum Institute Publication 1615, *Installation of Underground Petroleum Storage Systems*;

(III) American Petroleum Institute Publication 1632, *Cathodic Protection of Underground Petroleum Storage Tanks and*

Piping Systems; and

(IV) National Association of Corrosion Engineers Standard RP-01-69, *Control of External Corrosion on Submerged Metallic Piping Systems*;

4. The piping is constructed of metal without additional corrosion protection measures provided that—

A. The piping is installed at a *[site] facility* that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and

B. Owners and operators maintain records that demonstrate compliance with the requirements of subparagraph (1)(A)4.A. of this rule for the remaining life of the tank;

5. The following codes may be used to comply with paragraph (1)(B)4. of this rule:

A. National Fire Protection Association Standard 30, *Flammable and Combustible Liquids Code*; and

B. National Association of Corrosion Engineers Standard RP-01-69, *Control of External Corrosion on Submerged Metallic Piping Systems*; or

6. The piping construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in paragraphs (1)(B)1.-5. of this rule;

(E) Certification of Installation. All owners and operators must ensure that one (1) or more of the following methods of certification, testing, or inspection is used to demonstrate compliance with subsection (1)(D) of this rule by providing a certification of compliance on the UST notification form in accordance with *[10 CSR 20-10.022/ 10 CSR 26-2.022]*:

1. The installer has been certified by the tank and piping manufacturers;

2. The installer has been certified or licensed by the department;

3. The installation has been inspected and certified by a registered professional engineer with education and experience in UST system installation;

4. The installation has been inspected and approved by the department;

5. All work listed in the manufacturer's installation checklists has been completed; or

6. The owner and operator have complied with another method for ensuring compliance with subsection (1)(D) of this rule that is determined by the department to be no less protective of human health and the environment.

AUTHORITY: *sections 319.105[, RSMo Supp. 1989,] and 319.107, RSMo 2000 and section 319.137 [and 644.041], RSMo [1986] Supp. 2008. This rule originally filed as 10 CSR 20-10.020. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.*

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical
Regulations**

PROPOSED AMENDMENT

[10 CSR 20-10.021] 10 CSR 26-2.021 Upgrading of Existing Underground Storage Tank Systems. The department is moving the rule and amending sections (1)–(4).

PURPOSE: *The rule number and the rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the Code of State Regulations. The authority for the rule is amended to reflect the actual and appropriate authority.*

(1) Alternatives Allowed. No later than December 22, 1998, all existing underground storage tank (UST) systems must comply with one (1) of the following requirements:

(A) New UST system performance standards in **[10 CSR 20-10.020] 10 CSR 26-2.020**;

(C) Closure requirements in **[10 CSR 20-10.070–10 CSR 20-10.074] 10 CSR 26-2.060–10 CSR 26-2.064**, including applicable requirements for corrective action in **[10 CSR 20-10.060–10 CSR 20-10.067] 10 CSR 26-2.070–10 CSR 26-2.082**.

(2) Tank Upgrading Requirements. Steel tanks must be upgraded to meet one (1) of the following requirements in accordance with a code of practice developed by a nationally-recognized association or independent testing laboratory:

(A) Interior Lining. A tank may be upgraded by internal lining if—

1. The lining is installed in accordance with the requirements of **[10 CSR 20-10.033] 10 CSR 26-2.033**; and

2. Within ten (10) years after lining, and every five (5) years after that, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications;

(B) Cathodic Protection. A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of the performance standards for new UST systems in **[10 CSR 20-10.020/10 CSR 26-2.020(1)(A)2.B.–D.** and the integrity of the tank is ensured using one (1) of the following methods:

1. The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic protection system;

2. The tank has been installed for less than ten (10) years and is monitored monthly for releases in accordance with release detection methods **[10 CSR 20-10.043/10 CSR 26-2.043(1)(D)–(H)**;

3. The tank has been installed for less than ten (10) years and is assessed for corrosion holes by conducting two (2) tightness tests that meet the requirements of release detection method **[10 CSR 20-10.043/10 CSR 26-2.043(1)(C)**. The first tightness test must be conducted prior to installing the cathodic protection system. The second tightness test must be conducted between three and six (3–6) months following the first operation of the cathodic protection system; or

4. The tank is assessed for corrosion holes by a method that is determined by the department to prevent releases in a manner that is

no less protective of human health and the environment than paragraphs (2)(B)1.–3. of this rule; and

(C) Internal Lining Combined With Cathodic Protection. A tank may be upgraded by both internal lining and cathodic protection if—

1. The lining is installed in accordance with the requirements of **[10 CSR 20-10.033] 10 CSR 26-2.033**; and

2. The cathodic protection system meets the requirements of **[10 CSR 20-10.020/10 CSR 26-2.020(1)(A)2.B.–D.**

(3) Piping Upgrading Requirements. Metal piping that routinely contains regulated substances and is in contact with the ground must be cathodically protected in accordance with a code of practice developed by a nationally-recognized association or independent testing laboratory and must meet the requirements of **[10 CSR 20-10.020/10 CSR 26-2.020(1)(B)3.B.–D.**

(4) Spill and Overfill Prevention Equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with new UST system spill and overfill prevention equipment requirements specified in **[10 CSR 20-10.020/10 CSR 26-2.020(1)(C)**.

AUTHORITY: *sections 319.105 and 319.107, RSMo [Supp. 1989] 2000 and [644.026, RSMo Supp. 1993] section 319.137, RSMo Supp. 2008. This rule originally filed as 10 CSR 20-10.021. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.*

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical
Regulations**

PROPOSED AMENDMENT

[10 CSR 20-10.022] 10 CSR 26-2.022 Notification Requirements. The department is moving the rule and amending sections (2), (4), (6), and (7).

PURPOSE: *The rule number and the rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26,*

Chapter 2 of the Code of State Regulations. The authority for the rule is amended to reflect the actual and appropriate authority.

(2) Any owner who brings a UST system in-use after September 28, 1990, must, within thirty (30) days of bringing the tank in-use, register the completed UST system on forms [provided by] available from the department, **ATTN: Tanks Section, PO Box 176, Jefferson City, MO 65102-0176 or at www.dnr.mo.gov**. Note: Owners and operators of UST systems that were in the ground on or after May 8, 1986, unless taken out-of-operation on or before January 1, 1974, were required to notify the state in accordance with the Hazardous and Solid Waste Amendments of 1984, P.L. 98-616, on a form published by Environmental Protection Agency (EPA) on November 8, 1985 (50 FR 46602), unless notice was given pursuant to section 103(c) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Owners and operators who have not complied with the notification requirements may use forms [provided by] available from the department.

(4) All owners and operators of new UST systems must certify in the notification form compliance with the following requirements:

(A) Installation of tanks and piping in **[10 CSR 20-10.020/10 CSR 26-2.020(1)(E)]**;

(B) Cathodic protection of steel tanks and piping under **[10 CSR 20-10.020/10 CSR 26-2.020(1)(A) and (B)]**;

(C) Financial responsibility in **[10 CSR 20-11.090 through 10 CSR 20-11.112/ 10 CSR 26-3.090–10 CSR 26-3.112]**; and

(D) Release detection in **[10 CSR 20-10.041/ 10 CSR 26-2.041 and 10 CSR 20-10.042/ 10 CSR 26-2.042]**.

(6) All owners and operators of new UST systems must ensure that the installer certifies in the notification form that the methods used to install the tanks and piping comply with the requirements in **[10 CSR 20-10.020/10 CSR 26-2.020(1)(D)]**.

(7) The department shall issue a Certificate of Registration for any tanks which meet the requirements in sections (1) through (5) of this rule and **[10 CSR 20-10.020/ 10 CSR 26-2.020 and 10 CSR 20-10.021/ 10 CSR 26-2.021]**. The Certificate of Registration shall be valid for five (5) years except as described in section (8) of this rule.

AUTHORITY: sections 319.103, 319.105, 319.107, 319.111, 319.114, and 319.123, RSMo [1994] 2000 and section 319.137, RSMo Supp. [1998] 2008. This rule originally filed as 10 CSR 20-10.022. Original rule filed April 2, 1990, effective Sept. 28, 1990. For intervening history, please consult the *Code of State Regulations*. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

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August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.030/ 10 CSR 26-2.030 Spill and Overfill Control. The department is moving the rule and amending section (2).

PURPOSE: The rule number and the rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the *Code of State Regulations*. The authority for the rule is amended to reflect the actual and appropriate authority.

(2) The owner and operator must report, investigate, and clean up any spills and overfills in accordance with **[10 CSR 20-10.053/ 10 CSR 26-2.053]**.

AUTHORITY: sections 319.105[,], and 319.107, RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008 [and 644.041, RSMo 1986]. This rule originally filed as 10 CSR 20-10.030. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.031] 10 CSR 26-2.031 Operation and Maintenance of Corrosion Protection. The department is moving the rule and amending subsection (1)(D).

PURPOSE: The rule number and the rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the *Code of State Regulations*. The authority for the rule is amended to reflect the actual and appropriate authority.

(1) All owners and operators of steel underground storage tank (UST) systems with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances.

(D) For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained (in accordance with **[10 CSR 20-10.034] 10 CSR 26-2.034**) to demonstrate compliance with the performance standards in this rule. These records must provide the following:

1. The results of the last three (3) inspections required in subsection (1)(C) of this rule; and
2. The results of testing from the last two (2) inspections required in subsection (1)(B) of this rule.

AUTHORITY: sections 319.105 and 319.107, *RSMo 2000* and section 319.137, *RSMo Supp. 2008* [1989 and 644.041, *RSMo 1986*]. This rule originally filed as 10 CSR 20-10.031. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.032] 10 CSR 26-2.032 Compatibility. The department is moving the rule.

PURPOSE: The rule number is amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the *Code of State*

Regulations. The authority for the rule is amended to reflect the actual and appropriate authority.

AUTHORITY: section[s] 319.105, *RSMo 2000* and section 319.137, *RSMo Supp. [1989] 2008* [and 644.041, *RSMo 1986*]. This rule originally filed as 10 CSR 20-10.032. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.033] 10 CSR 26-2.033 Repairs Allowed. The department is moving the rule and amending subsections (2)(D) and (2)(E).

PURPOSE: The rule number and the rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the *Code of State Regulations*. The authority for the rule is amended to reflect the actual and appropriate authority.

(2) The repairs must meet the following requirements:

(D) Repaired tanks and piping must be tightness tested in accordance with release detection methods **[10 CSR 20-10.043] 10 CSR 26-2.043(1)(C)** and **[10 CSR 20-10.044] 10 CSR 26-2.044(1)(B)** within thirty (30) days following the date of the completion of the repair, except as provided in the following paragraphs—

1. The repaired tank is internally inspected in accordance with a code of practice developed by a nationally-recognized association or an independent testing laboratory;

2. The repaired portion of the UST system is monitored monthly for releases by one (1) of the release detection methods in **[10 CSR 20-10.043] 10 CSR 26-2.043(1)(D)–(H)**; or

3. Another test method is used that is determined by the department to be no less protective of human health and the environment than those listed in paragraphs (2)(D)1. and 2.;

(E) Within six (6) months following the repair of any cathodically

protected UST system, the cathodic protection system must be tested with the methods for operation and maintenance of corrosion protection in *[10 CSR 20-10.031/10 CSR 26-2.031(1)(B) and (C)]* to ensure that it is operating properly; and

AUTHORITY: *sections 319.105[,] and 319.107, RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008 [and 644.041, RSMo 1986]. This rule originally filed as 10 CSR 20-10.033. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.*

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.034] 10 CSR 26-2.034 Reporting and Record [k]Keeping. The department is moving the rule and amending the rule title and section (1).

PURPOSE: *The rule number and rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the Code of State Regulations. Terms within the rule are amended for consistency and clarity. The "Request for Records" form is deleted from the rule because it is no longer used by the department. The authority for the rule is amended to reflect the actual appropriate authority.*

(1) Owners and operators of underground storage tank (UST) systems must cooperate fully with inspections, monitoring, and testing conducted by the department, as well as requests for document submission, testing, and monitoring by the owner or operator.

(A) Reporting. Owners and operators must submit the following information to the department:

1. Notification for all UST systems by the notification requirements in *[10 CSR 20-10.022] 10 CSR 26-2.022*;

2. Reports of all releases including suspected releases (*[10 CSR 20-10.050] 10 CSR 26-2.050*), spills and overfills (*[10 CSR 20-10.053] 10 CSR 26-2.053*), and confirmed releases (*[10 CSR 20-10.061] 10 CSR 26-2.071*);

3. Corrective actions planned or taken including initial abatement measures (*[10 CSR 20-10.062] 10 CSR 26-2.072*), initial site characterization (*[10 CSR 20-10.063] 10 CSR 26-2.073*), free product removal (*[10 CSR 20-10.064] 10 CSR 6-2.074*), investigation of soil and groundwater cleanup (*[10 CSR 20-10.065] 10 CSR 26-2.076*), and corrective action plan (*[10 CSR 20-10.066] 10 CSR 26-2.079*); and

4. A notification before permanent closure or change in service (*[10 CSR 20-10.071] 10 CSR 26-2.061*).

(B) Record [k]Keeping. Owners and operators must maintain the following information:

1. A corrosion expert's analysis of *[site] facility* corrosion potential if corrosion protection equipment is not used (*[10 CSR 20-10.020] 10 CSR 26-2.020(1)(A)4. and (1)(B)4.*);

2. Documentation of operation of corrosion protection equipment (*[10 CSR 20-10.031] 10 CSR 26-2.031*);

3. Documentation of UST system repairs (*[10 CSR 20-10.033] 10 CSR 26-2.033(2)(F)*);

4. Recent compliance with release detection requirements (*[10 CSR 20-10.045] 10 CSR 26-2.045*); and

5. Results of the site investigation conducted at permanent closure (*[10 CSR 20-10.074] 10 CSR 26-2.064*).

(C) Availability and Maintenance of Records. Owners and operators must keep the records required either—

1. At the UST *[site] facility* and immediately available for inspection by the department; or

2. At a readily available alternative *[site] location* and be provided for inspection to the department within three (3) working days or five (5) calendar days upon receipt of a written request. A written request shall be made in the following manner:

A. The department shall provide a written request at the time of inspection to *[site] facility* personnel; or

B. In the cases of unattended *[sites] facilities* or inspections conducted after normal business hours (8:00 a.m. to 5:00 p.m., local time, Monday through Friday), written notice shall be made by certified mail; or

3. If the owner or operator fails to meet the requirements of paragraph (1)(C)2., the department may order or otherwise require that owner or operator to maintain records *[on-site] at the facility* per paragraph (1)(C)1.; or

4. In the case of permanent closure records required under *[10 CSR 20-10.074] 10 CSR 26-2.064*, owners and operators are also provided with the additional alternative of mailing closure records to the department if they cannot be kept at the *[site] facility* or an alternative *[site] location* as indicated in this section.

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL QUALITY
WATER POLLUTION CONTROL PROGRAM

file: _____ County
UT _____

REQUEST FOR RECORDS
UNDERGROUND STORAGE TANK
INSPECTION

Date: _____
Time: _____

Pursuant to 10 CSR 20-10.034(1)(C)2. the Department of Natural Resources requests the records concerning the underground storage tanks facility located at:

Facility name: _____

Facility address: _____
be provided to Missouri Department of Natural Resources

Office

Mailing address: _____
Street address: _____

(City) (State) (Zip Code)
within three (3) working days or five (5) calendar days of
this notice.
This request was made on _____

(Date & Time)

by: _____
(Inspector name)

(Inspector office)

(Inspector phone)

and was given to:

(Site person name)

Signed:

(Inspector)]

AUTHORITY: sections 319.107[,] and 319.111, RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008 [and 644.021, RSMo 1986]. This rule originally filed as 10 CSR 20-10.034. Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.040] 10 CSR 26-2.040 General Requirements for Release Detection for All Underground Storage Tank Systems. The department is moving the rule and amending sections (1)–(4).

PURPOSE: The rule number and rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the **Code of State Regulations**, and the authority for the rule is amended to reflect the actual appropriate authority.

(1) Owners and operators of new and existing underground storage tank (UST) systems must provide a method, or combination of methods, of release detection that—

(C) Meets the performance requirements for tanks in [10 CSR 20-10.043] **10 CSR 26-2.043** or for piping in [10 CSR 20-10.044] **10 CSR 26-2.044**, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods used after December 22, 1990, except for methods permanently installed prior to that date, must be capable of detecting the leak rate or quantity specified for that tank method in [10 CSR 20-10.043/10 CSR 26-2.043(1)(B)–(D)] or piping method in [10 CSR 20-10.044/10 CSR 26-2.044(1)(A) and (B)] with a probability of detection of ninety-five percent (95%) and a probability of false alarm of five percent (5%).

(2) When a release detection method for tanks in [10 CSR 20-10.043] **10 CSR 26-2.043** or for piping in [10 CSR 20-10.044] **10 CSR 26-2.044** indicates a release may have occurred, owners and operators must notify the department in accordance with [10 CSR 20-10.050–10 CSR 20-10.053] **10 CSR 26-2.050–10 CSR 26-2.053**.

(3) Owners and operators of all UST systems must comply with the release detection requirements of [10 CSR 20-10.040–10 CSR 20-10.045] **10 CSR 26-2.040–10 CSR 26-2.045** by the following dates based on the year of installation:

(4) Any existing UST system that cannot apply a method of release detection that complies with the requirements of [10 CSR 20-10.040–10 CSR 20-10.045] **10 CSR 26-2.040–10 CSR 26-2.045** must complete the closure procedures in [10 CSR 20-10.070–10 CSR 20-10.074] **10 CSR 26-2.060–10 CSR 26-2.064** by the date on which release detection is required for that UST system under section (3) of this rule.

AUTHORITY: sections 319.105, 319.107, and 319.111, RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]. This rule originally filed as 10 CSR 20-10.040. Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.041] 10 CSR 26-2.041 Requirements for Petroleum Underground Storage Tank Systems. The department is moving the rule and amending section (1).

PURPOSE: *The rule number and rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the Code of State Regulations, and the authority for the rule is amended to reflect the actual appropriate authority.*

(1) Owners and operators of petroleum underground storage tanks (UST) systems must provide release detection for tanks and piping as follows:

(A) Tanks. Tanks must be monitored at least every thirty (30) days for releases using one (1) of the methods listed in [10 CSR 20-10.043/10 CSR 26-2.043(1)(D)–(H) except that—

1. UST systems that meet new or upgraded standards in [10 CSR 20-10.020/ 10 CSR 26-2.020 or [10 CSR 20-10.021] 10 CSR 26-2.021 and the monthly inventory control requirements in [10 CSR 20-10.043/10 CSR 26-2.043(1)(A) or (B) may use tank tightness testing ([10 CSR 20-10.043/10 CSR 26-2.043(1)(C)) at least every five (5) years until December 22, 1998, or until ten (10) years after the tank is installed or upgraded under [10 CSR 20-10.021/10 CSR 26-2.021(2), whichever is later;

2. UST systems that do not meet the performance standards in [10 CSR 20-10.020/ 10 CSR 26-2.020 or [10 CSR 20-10.021] 10 CSR 26-2.021 may use monthly inventory controls ([10 CSR 20-10.043/10 CSR 26-2.043(1)(A) or (B)) and annual tank tightness testing ([10 CSR 20-10.043/10 CSR 26-2.043(1)(C)) until December 22, 1998, when the tank must be upgraded under [10 CSR 20-10.021/ 10 CSR 26-2.021 or permanently closed under [10 CSR 20-10.071] 10 CSR 26-2.061; and

3. Tanks with capacity of five hundred fifty (550) gallons or less may use manual tank gauging ([10 CSR 20-10.043/10 CSR 26-2.043(1)(B)); and

(B) Piping. Underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets one (1) of the following requirements:

1. Pressurized piping. Underground piping that conveys regulated substances under pressure must—

A. Be equipped with an automatic line leak detector in [10 CSR 20-10.044/10 CSR 26-2.044(1)(A); and

B. Have an annual line tightness test conducted in accordance with [10 CSR 20-10.044/10 CSR 26-2.044(1)(B) or have monthly monitoring conducted in accordance with [10 CSR 20-10.044/10 CSR 26-2.044(1)(C); and

2. Suction piping. Underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least every three (3) years and in accordance with [10 CSR 20-10.044/10 CSR 26-2.044(1)(B) or use a monthly monitoring method conducted in accordance with [10 CSR 20-10.044/10

CSR 26-2.044(1)(C). No release detection is required for suction piping that is designed and constructed to meet the following standards:

A. The below-grade piping operates at less than atmospheric pressure;

B. The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

C. Only one (1) check valve is included in each suction line;

D. The check valve is located directly below and as close as practical to the suction pump; and

E. A method is provided that allows compliance with subparagraphs (1)(B)2.A.–D. of this rule to be readily determined (for example, the check valve can be visually inspected).

AUTHORITY: *sections 319.105 and 319.107, RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]. This rule originally filed as 10 CSR 20-10.041. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.*

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.042] 10 CSR 26-2.042 Requirements for Hazardous Substance Underground Storage Tank Systems. The department is moving the rule and amending section (1).

PURPOSE: *The rule number and rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the Code of State Regulations; the authority for the rule is amended to reflect the actual appropriate authority; and the term “site” in subparagraph (1)(B)5.B. is changed to “facility” for consistency and clarity.*

(1) Owners and operators of hazardous substance underground storage tank (UST) systems must provide release detection that meets the following requirements:

(A) Release detection at existing UST systems must meet the requirements for petroleum UST systems in [10 CSR 20-10.041/10 CSR 26-2.041. By December 22, 1998, all hazardous substance UST systems must meet the release detection requirements for new systems in subsection (1)(B) of this rule;

(B) Release detection at new hazardous substance UST systems must meet the following requirements:

1. Secondary containment systems must be designed, constructed, and installed to—

A. Contain regulated substances released from the tank system until they are detected and removed;

B. Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

C. Be checked for evidence of a release at least every thirty (30) days;

2. Double-walled tanks must be designed, constructed, and installed to—

A. Contain a release from any portion of the inner tank within the outer wall; and

B. Detect the failure of the inner wall;

3. External liners (including vaults) must be designed, constructed, and installed to—

A. Contain one hundred percent (100%) of the capacity of the largest tank within its boundary;

B. Prevent the interference of precipitation or groundwater intrusion with the ability to contain or detect a release of regulated substances; and

C. Surround the tank completely (that is, it is capable of preventing lateral as well as vertical migration of regulated substances);

4. Underground piping must be equipped with secondary containment that satisfies the requirements of paragraph (1)(B)1. of this rule (for example, trench liners, jacketing of double-walled pipe). In addition, underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector in [10 CSR 20-10.044/10 CSR 26-2.044(1)(A); and

5. Other methods of release detection may be used if owners and operators—

A. Demonstrate to the department that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in [10 CSR 20-10.043/10 CSR 26-2.043(1)(B)–(H) can detect a release of petroleum;

B. Provide information to the department on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance and the characteristics of the UST [site] facility; and

C. Obtain approval from the department to use the alternate release detection method before the installation and operation of the new UST system.

AUTHORITY: sections 319.105 and 319.107, *RSMo 2000* and section 319.137, *RSMo Supp. [1989] 2008* [and 644.026, *RSMo Supp. 1993*]. This rule originally filed as 10 CSR 20-10.042. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.043] 10 CSR 26-2.043 **Methods of Release Detection for Tanks.** The department is moving the rule and amending section (1).

PURPOSE: The rule number and rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the *Code of State Regulations*; the authority for the rule is amended to reflect the actual appropriate authority; and the term “site” in paragraphs (1)(E)6. and (1)(F)7. is changed to “area” in both instances for consistency and clarity.

(1) Each method of release detection for underground storage tanks (UST) used to meet the requirements of petroleum UST leak detection in [10 CSR 20-10.041] 10 CSR 26-2.041 must meet the following:

(B) Manual Tank Gauging. Manual tank gauging must meet the following requirements:

1. Tank liquid level measurements are taken at the beginning and ending of a period of at least thirty-six (36) hours during which no liquid is added to or removed from the tank;

2. Level measurements are based on an average of two (2) consecutive stick readings at both the beginning and ending of the period;

3. The equipment used is capable of measuring the level of product over the full range of the tank’s height to the nearest one-eighth inch (1/8”);

4. A leak is suspected and subject to the requirements of [10 CSR 20-10.050–10 CSR 20-10.053] 10 CSR 26-2.050–10 CSR 26-2.053 if the variation between beginning and ending measurements exceeds the following weekly or monthly standards:

A. Tanks of five hundred fifty (550)-gallon capacity or less are allowed a weekly standard of ten (10) gallons per reading and a monthly average of five (5) gallons per reading;

B. Five hundred fifty-one to one thousand (551–1,000)-gallon capacity tanks are allowed a difference of thirteen (13) gallons per week and a monthly average of seven (7) gallons;

C. One thousand one to two thousand (1,001–2,000)-gallon capacity tanks are allowed a difference of twenty-six (26) gallons per week and a monthly average of thirteen (13) gallons;

D. Five hundred fifty-one to one thousand (551–1,000)-gallon capacity tanks with dimensions no greater than sixty-four inches by seventy-three inches (64" × 73") are allowed a difference of nine (9) gallons per week and monthly average of four (4) gallons, provided that a period of at least forty-four (44) hours during which no

liquid is added to or removed from the tank is allowed to pass between tank liquid level measurements; and

E. One thousand (1,000)-gallon capacity tanks with dimensions of forty-eight inches by one hundred twenty-eight inches (48" × 128") are allowed a difference of twelve (12) gallons per week and a monthly average of six (6) gallons, provided that a period of at least fifty-eight (58) hours during which no liquid is added to or removed from the tank is allowed to pass between tank liquid level measurements; and

5. Use of manual tank gauging must comply with the following size restrictions:

A. Tanks of five hundred fifty (550) gallons or less nominal capacity may use this as the sole method of release detection;

B. Tanks of five hundred fifty-one to one thousand (551–1,000)-gallon capacity with dimensions no greater than sixty-four inches by seventy-three inches (64" × 73") and tanks of one thousand (1,000)-gallon capacity with dimensions of forty-eight inches by one hundred twenty-eight inches (48" × 128") may use this as the sole method of release detection;

C. Tanks of five hundred fifty-one to two thousand (551–2,000) gallons may use the method in place of inventory control in *10 CSR 20-10.043/10 CSR 26-2.043*(1)(A); and

D. Tanks of greater than two thousand (2,000) gallons nominal capacity may not use this method for release detection;

(D) Automatic Tank Gauging. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:

1. The automatic product level monitor test can detect a two-tenths (0.2)-gallon-per-hour leak rate from any portion of the tank that routinely contains product; and

2. Inventory control (or equivalent test) meeting the requirements in *10 CSR 20-10.043/10 CSR 26-2.043*(1)(A) is conducted;

(E) Vapor Monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:

1. The materials used as backfill are sufficiently porous and permeable (for example, gravel, sand, or crushed rock) to readily allow diffusion of vapors from releases into the excavation area;

2. The stored regulated substance, or a tracer compound placed in the tank system, is sufficiently volatile (for example, gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;

3. The measurement of vapors by the monitoring device is not rendered inoperative by *[the]* groundwater, rainfall, or soil moisture or other known interferences so that a release could go undetected for more than thirty (30) days;

4. The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;

5. The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component(s) of that substance, or a tracer compound placed in the tank system;

6. In the UST excavation zone, the *[site]* area is assessed to ensure compliance with the requirements in paragraphs (1)(E)1.–4. of this rule and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product; and

7. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;

(F) Groundwater Monitoring. Testing or monitoring for liquids on the groundwater must meet the following requirements:

1. The regulated substance stored is immiscible in water and has a specific gravity of less than one (1);

2. The groundwater is within twenty feet (20') from the ground surface and the hydraulic conductivity of the soil(s) between the UST system and the monitoring wells or devices is at least one hundredth centimeter per second (0.01 cm/sec) (for example, the soil should

consist of gravels, coarse to medium sands, coarse silts, or other permeable materials);

3. The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;

4. Monitoring wells shall be sealed from the ground surface to the top of the filter pack;

5. Monitoring wells or devices shall intercept the excavation zone or are as close to it as is technically feasible;

6. The continuous monitoring devices or manual methods used can detect the presence of at least one-eighth inch (1/8") of free product on top of the groundwater in the monitoring wells;

7. The *[site]* area is assessed within and immediately below the UST system excavation zone to ensure compliance with the requirements in paragraphs (1)(F)1.–5. of this rule. The site assessment also establishes the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and

8. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;

(G) Interstitial Monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed, and installed to detect a leak from any portion of the tank that routinely contains product and also meets one (1) of the following requirements:

1. For double-walled UST systems, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product;

2. For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the UST system and the secondary barrier.

A. The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (less than one millionth centimeter per second (10^{-6} cm/sec) for the regulated substance stored) to direct a release to the monitoring point and permit its detection.

B. The barrier is compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected.

C. For cathodically protected tanks the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system.

D. *[The g/G]*Groundwater, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than thirty (30) days.

E. The *[site]* area is assessed to ensure that the secondary barrier is always above the groundwater and not in a twenty-five (25)-year flood plain, unless the barrier and monitoring designs are for use under these conditions.

F. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;

3. For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner is compatible with the substance stored; and

4. The provisions outlined in the Steel Tank Institute's *Standard for Dual Wall Underground Storage Tanks* may be used as guidance for aspects of the design and construction of underground steel double-walled tanks; and

AUTHORITY: sections 319.105 and 319.107, *RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]*. This rule originally filed as 10 CSR 20-10.043. Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.044] **10 CSR 26-2.044 Methods of Release Detection for Piping.** The department is moving the rule and amending section (1).

PURPOSE: The rule number and rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the *Code of State Regulations*, and the authority for the rule is amended to reflect the actual appropriate authority.

(1) Each method of release detection for piping used to meet the requirements of release detection for underground storage tanks (UST) in [10 CSR 20-10.041] **10 CSR 26-2.041** must be conducted in the following manner:

(C) Applicable Tank Methods. Any of the methods in [10 CSR 20-10.043] **10 CSR 26-2.043**(1)(E)–(H) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

AUTHORITY: sections 319.105 and 319.107, *RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008* [and 644.026, *RSMo Supp. 1993*]. This rule originally filed as 10 CSR 20-10.044. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.045] **10 CSR 26-2.045 Release Detection Record [k]Keeping.** The department is moving the rule and amending the rule title and section (1).

PURPOSE: The rule number and rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the *Code of State Regulations*; the authority for the rule is amended to reflect the actual appropriate authority; and the term “on-site” in subsection (1)(C) is changed to “at the facility” for clarity and consistency.

(1) All underground storage tank (UST) system owners and operators must maintain records in [10 CSR 20-10.034] **10 CSR 26-2.034** demonstrating compliance with applicable release detection requirements in [10 CSR 20-10.040–10 CSR 20-10.045] **10 CSR 26-2.040–10 CSR 26-2.045**. These records must include the following:

(B) The results of any sampling, testing, or monitoring must be maintained for at least one (1) year, or for another reasonable period of time determined by the department, except that the results of tank tightness testing conducted in accordance with [10 CSR 20-10.043] **10 CSR 26-2.043**(1)(C) must be retained until the next test is conducted; and

(C) Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located [on-site] **at the facility** must be maintained for at least one (1) year after the servicing work is completed. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained for five (5) years from the date of installation.

AUTHORITY: sections 319.105 and 319.107, *RSMo 2000 and section 319.137, RSMo Supp. [1989] 2008* [and 644.026, *RSMo Supp. 1993*]. This rule originally filed as 10 CSR 20-10.045. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.050] **10 CSR 26-2.050 Release Reporting [of Suspected Releases].** The department is moving the rule, amending the rule title and sections (1) and (2), and adding sections (1) and (3)–(5).

PURPOSE: The rule is amended to clarify release reporting requirements and to specify a telephone number to be called when reporting a release to the department.

(1) The requirements of this rule are solely for the purposes of this chapter. Other reporting requirements under other local, state, and federal authorities and for other purposes might not be satisfied by meeting the requirements of this rule.

[(1)](2) Owners and operators of underground storage tank (UST) systems must report to the department *[within]* **by telephone at (573) 634-2436 as soon as is practical but no later than twenty-four (24) hours** and follow the procedures for release investigation and confirmation in *[10 CSR 20-10.052 for any]* **10 CSR 26-2.052 upon discovery of one (1) or more** of the following conditions:

(A) *[The discovery by owners and operators or others of r/Released regulated substances [at the UST site] on the property on which a UST system is located, on an adjacent or nearby property, or in the surrounding area. [such as the presence of free product or vapors in soils, basements, sewer and utility lines and nearby surface water]]* Indications of released regulated substances might include, but are not limited to, the presence of petroleum or petroleum-related constituents in soil, groundwater, or surface water and the presence of petroleum or petroleum vapors in soil, basements, and within or adjacent to sewer and other utility lines;

(B) Unusual UST system operating conditions observed by owners and operators, **including, but not limited to, [such as the] erratic behavior of product dispensing equipment, the sudden loss of product from the UST system not accounted for by normal operations, or an unexplained presence of water in [the tank]] one (1) or more USTs**, unless system equipment is found to be defective but not leaking and is immediately repaired or replaced; and

(C) Monitoring results from a release detection method required under *[10 CSR 20-10.041]* **10 CSR 26-2.041** and *[10 CSR 20-10.042]* **10 CSR 26-2.042** that indicate a release may have occurred unless—]

[1. *The]* the monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced and additional monitoring does not confirm the initial result[; and].

[2. *In the case of inventory control,]* **If inventory control is the method for release detection and a second month of data does not confirm the initial result[.], owners and operators must contact the department within seven (7) days of the collection of the second month of data and need not continue release investigation and confirmation activities under 10 CSR 26-2.052 unless the results of the system test or site check indicate a release has occurred.**

(3) Owners and operators of underground storage tank (UST) systems must report to the department by telephone at (573) 634-2436 as soon as is practical but no later than twenty-four (24) hours upon discovery of a spill or overfill of petroleum or a hazardous substance or substances from an UST system. Owners and operators must contain and immediately clean up the release and begin corrective action in accordance with 10 CSR 26-2.053.

(4) If a release of a hazardous substance equals or is in excess of its reportable quantity, owners and operators must immediately report the release to the National Response Center under Sections 102 and 103 of CERCLA (40 CFR 302.6) and to appropriate state and local authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986 (40 CFR 355.40) and begin corrective action in accordance with 10 CSR 26-2.053.

(5) Upon confirmation of a release in 10 CSR 26-2.052, or after a release from an UST system is identified in any other manner, owners or operators must report the release to the department by telephone at (573) 634-2436 as soon as is practical but no later than twenty-four (24) hours of confirmation or discovery and comply with 10 CSR 26-2.071.

AUTHORITY: section 319.109, *RSMo Supp. 2008. [sections 319.107, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.] This rule originally filed as 10 CSR 20-10.050. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities approximately nine hundred ninety-four dollars (\$994) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

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August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

FISCAL NOTE**PRIVATE COST****I. RULE NUMBER**

<u>Rule Number and Name</u> 10 CSR 26-2.050 Release Reporting
<u>Type of Rulemaking</u> Rule amendment

II. SUMMARY OF FISCAL IMPACT

Classification by types of the business entities which would likely be affected:	Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Estimate as to the aggregate cost of compliance with the rule by the affected entities:
<ul style="list-style-type: none"> • Retail automotive fueling stations • Fleet operations • Automotive service and repair facilities • Manufacturing operations • Other owners and operators of underground storage tank systems 	>2,000 ¹	\$994.00

III. Worksheet

$$(\$25.00/60 \times 10) + (\$0.08/\text{min} \times 10.00) \times (10 \times 20) = \$993.33$$

IV. Assumptions

The department proposes to consolidate requirements in 10 CSR 20-10.050 and 10 CSR 20-10.053 for reporting of releases from underground storage tank systems into 10 CSR 26-2.050. In addition, both rules will be renumbered and moved from rule division 20 to new rule division 26 within the Code of State Regulations. Simultaneously, language will be added to 10 CSR 26-2.050 to clarify applicability of the rule and requirements

¹ The Missouri Department of Natural Resources tanks database lists approximately 1,900 registered underground storage tank owners; the department assumes that several hundred additional owners exist who have not registered with the department.

when inventory control is used to detect underground storage tank releases and a specific telephone number for reporting releases is added.

The department assumes that the proposed rule amendments will clarify release reporting requirements such that the number of release reports received by the department will increase. In addition, the number of releases considered reportable is likely to increase due to the addition of a provision requiring reporting when contaminant concentrations exceed default target levels and when the volume of a release is unknown.

The department assumed the following in estimating that the aggregate private entity cost of the amended rule will be greater than \$500:

- 10 additional release reports per year
- Rule in place as amended for 20 years
- \$4.97 per report
 - Salary of person making report: \$25/hr
 - Time to make report: 10 minutes
 - Long distance charge for call: \$0.08/min

Based on these assumptions, the total aggregate private entity cost of the proposed amendments to rule 10 CSR 26-2.050 is approximately \$994.00.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.051] 10 CSR 26-2.051 Investigation Due to [Off-Site] Impacts on Adjacent or Nearby Properties. The department is moving the rule and amending the purpose and section (1).

PURPOSE: *The rule number and rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the Code of State Regulations. Section (1) of the rule is amended to use terms consistent with other Chapter 2 rules and to clarify the intent of the rule. The authority for the rule is amended to reflect the actual appropriate authority.*

PURPOSE: *This rule describes the requirements for [off-site] investigations on property or properties adjacent to or near a property on which a UST system is found following reported or suspected releases.*

(1) When required by the department, owners and operators of underground storage tank (UST) systems must follow the steps for confirmation of a release in **[10 CSR 20-10.052] 10 CSR 26-2.052** to determine if the UST system is the source of **[the off-site] impacts on property or properties adjacent to or near the property on which the UST system is found**. These impacts include, **but are not necessarily limited to**, the discovery of regulated substances such as the presence of **regulated substances or constituents of regulated substances in soil, groundwater, or surface water**; free product or vapors in soils, basements, sewer **[and] or other** utility lines **[and]**, or nearby surface **[and] or** drinking water[s] that have been **detected or otherwise** observed by the department or brought to its attention by another party.

AUTHORITY: *section[s] 319.107, RSMo 2000 and sections 319.109 and 319.137, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]. This rule originally filed as 10 CSR 20-10.051. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.*

PUBLIC COST: *This proposed amendment will not state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

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Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.052] 10 CSR 26-2.052 Release Investigation and Confirmation Steps. The department is moving the rule and amending sections (1) and (2).

PURPOSE: *The rule number and rule references within the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 2 of the Code of State Regulations. The language of subsection (1)(B) is amended for clarity and consistency, while section (2) is amended to reference current applicable guidance. The authority for the rule is amended to reflect the actual appropriate authority.*

(1) Unless corrective action is initiated in **[10 CSR 20-10.060–10 CSR 20-10.067] 10 CSR 26-2.070–10 CSR 26-2.082**, owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under **[10 CSR 20-10.050] 10 CSR 26-2.050** within seven (7) days or another reasonable time period specified by the department using either the following steps or another procedure approved by the department:

(A) System Test. Owners and operators must conduct tests (tightness testing of tanks in **[10 CSR 20-10.043] 10 CSR 26-2.043(1)(C)** and piping in **[10 CSR 20-10.044] 10 CSR 26-2.044(1)(B)**) to determine whether a leak exists in that portion of the tank that routinely contains product or the attached delivery piping, or both.

1. Owners and operators must repair, replace, or upgrade the underground storage tank (UST) system, and begin corrective action in **[10 CSR 20-10.060–10 CSR 20-10.067] 10 CSR 26-2.070–10 CSR 26-2.082** if the test results for the system, tank, or delivery piping indicate that a leak exists.

2. Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release.

3. Owners and operators must conduct a site check as described in subsection (1)(B) of this rule if the test results for the system, tank, and delivery piping do not indicate that a leak exists, but environmental contamination is the basis for suspecting a release; or

(B) Site Check. Owners and operators must measure for the presence of a release where contamination is most likely to be present **[at] in association with the UST [site] system**. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, **the type of soil**, the depth of groundwater, and other factors appropriate for identifying the presence and source of the release.

1. If the site check indicates that a release has occurred, owners and operators must begin corrective action in accordance with **[10 CSR 20-10.060–10 CSR 20-10.067] 10 CSR 26-2.070–10 CSR 26-2.082**; or

2. If the results of the site check do not indicate that a release has occurred, the investigation may stop.

(2) Owners and operators shall follow a written procedure. To comply with this rule, the department's **[Site Characterization Guidance Document] Missouri Risk-Based Corrective Action (MRBCA) Process for Petroleum Storage Tanks guidance document** may be used as a written procedure. Other written procedures may be used with prior written approval of the department.

AUTHORITY: sections 319.105 and 319.107, RSMo 2000 and sections 319.109 and 319.137, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]. This rule originally filed as 10 CSR 20-10.052. Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

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PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical
Regulations**

PROPOSED AMENDMENT

[10 CSR 20-10.053] 10 CSR 26-2.053 Reporting and Cleanup of Spills and Overfills. The department is moving the rule, amending section (1), adding a new section (2), renumbering previous section (2), and deleting section (3).

PURPOSE: This rule is amended to clarify release reporting requirements and to reflect movement of the rule from Division 20, Chapter 10 to Division 26, Chapter 2.

(1) Owners and operators of underground storage tank (UST) systems must contain and immediately clean up a spill or overfill. The spill or overfill must be reported to the department *[within twenty-four (24) hours]* in accordance with 10 CSR 26-2.050.

(2) Owners and operators must begin corrective action in accordance with *[10 CSR 20-10.060–10 CSR 20-10.067]* **10 CSR 26-2.070–10 CSR 26-2.082** in the following cases:

(A) Spill or overfill of petroleum that results in a release to the environment that exceeds twenty-five (25) gallons, *[or]* that causes a sheen on nearby surface water, **or results in concentrations of petroleum chemicals of concern in the environment at concentrations exceeding the default target levels;** and

(B) Spill or overfill of a hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) (40 CFR 302).

[(2)](3) Owners and operators of UST systems must contain and immediately clean up a spill or overfill of petroleum that is less than twenty-five (25) gallons or another reasonable amount specified by the department and a spill or overfill of a hazardous substance that is less than *[the]* its reportable quantity. If cleanup cannot be accomplished within twenty-four (24) hours, **or the volume of the spill is unknown,** owners and operators must immediately notify the department in accordance with **10 CSR 26-2.050.**

[(3)] A release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within twenty-four (24) hours) to the National Response Center under Sections 102 and 103 of CERCLA (40 CFR 302.6) and to appropriate state and local authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986 (40 CFR 355.40).]

AUTHORITY: section[s] 319.109, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]. This rule originally filed as 10 CSR 20-10.053. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities approximately nine hundred ninety-four dollars (\$994) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

FISCAL NOTE**PRIVATE COST****I. RULE NUMBER**

<u>Rule Number and Name</u>
10 CSR 26-2.053 Reporting and Cleanup of Spills and Overfills
<u>Type of Rulemaking</u>
Rule amendment

II. SUMMARY OF FISCAL IMPACT

Classification by types of the business entities which would likely be affected:	Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
<ul style="list-style-type: none"> • Retail automotive fueling stations • Fleet operations • Automotive service and repair facilities • Manufacturing operations • Other owners and operators of underground storage tank systems 	>2,000 ¹	\$994.00

III. Worksheet

$$(\$25.00/60 \times 10) + (\$0.08/\text{min} \times 10.00) \times (10 \times 20) = \$993.33$$

IV. Assumptions

The department proposes to consolidate requirements in 10 CSR 20-10.050 and 10 CSR 20-10.053 for reporting of releases from underground storage tank systems into 10 CSR 26-2.050. In addition, both rules will be renumbered and moved from rule division 20 to new rule division 26 within the Code of State Regulations. 10 CSR 26-2.053 will be amended to add language explaining that reporting is required if contaminant

¹ The Missouri Department of Natural Resources tanks database lists approximately 1,900 registered underground storage tank owners; the department assumes that several hundred additional owners exist who have not registered with the department.

concentrations detected at or near the tank system exceed default target levels and when the volume of a release is unknown.

The department assumes the addition to 10 CSR 26-2.053 of provisions requiring reporting when contaminant concentrations exceed default target levels and when the volume of a release is unknown will increase the number of releases considered reportable.

The department assumed the following in estimating that the aggregate private entity cost over the lifetime of the amended rule will be greater than \$500:

- 10 additional release reports per year
- Rule in place as amended for 20 years
- \$4.97 per report
 - Salary of person making report: \$25/hr
 - Time to make report: 10 minutes
 - Long distance charge for call: \$0.08/min

Based on these assumptions, the total aggregate private entity cost of the proposed amendments to rule 10 CSR 26-2.053 is approximately \$994.00.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.060] **10 CSR 26-2.070 Release Response and Corrective Action.** The department is moving the rule and amending section (1).

PURPOSE: This amendment changes the rule number in the rule title and rule citations within the text to reflect movement of Division 20, Chapter 10 rules to Division 26, Chapter 2 and clarifies authority for the rule.

(1) Owners and operators of petroleum or hazardous substance underground storage tank (UST) systems must comply, in response to a confirmed release from the UST system, with the requirements of [10 CSR 20-10.060–10 CSR 20-10.067] **10 CSR 26-2.070–10 CSR 26-2.082** except for USTs excluded under [10 CSR 20-10.010(2)] **10 CSR 26-2.010(2)** and UST systems subject to the Resource Conservation and Recovery Act (RCRA), Subtitle C corrective action requirements under Section 3004(u).

AUTHORITY: sections 319.109 and 319.137, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]. This rule originally filed as 10 CSR 20-10.060. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.061] **10 CSR 26-2.071 Initial Release Response.** The department is moving the rule, adding section (1), and renumbering and amending the previous section (1).

PURPOSE: This amendment changes the rule number in the rule title and rule citations within the text to reflect movement of Division 20, Chapter 10 rules to Division 26, Chapter 2, clarifies authority for the rule, and adds requirements for vapor monitoring when light non-aqueous phase liquid is present to identify acute risks.

(1) Reserved.

[(1)](2) Upon confirmation of a release in [10 CSR 20-10.052] **10 CSR 26-2.052**, or after a release from the underground storage tank (UST) system is identified in any other manner, owners and operators must perform the following initial response actions within twenty-four (24) hours of a release:

(A) Report the release to the department [(for example, by telephone or electronic mail)] **in accordance with 10 CSR 26-2.050;**

(B) Take immediate action to prevent any further release of the regulated substance into the environment; and

(C) Identify and mitigate fire, explosion, and vapor hazards.

1. At sites where light non-aqueous phase liquid (LNAPL) is present, vapor monitoring shall be conducted in the area immediately above and within at least one hundred feet (100') of the known extent of LNAPL unless information is made available to the department that clearly demonstrates such monitoring is not warranted. Vapor monitoring must include all utilities, subsurface and surface structures, and any other enclosed spaces.

AUTHORITY: section[s] 319.109, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]. This rule originally filed as 10 CSR 20-10.061. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately eight thousand four hundred dollars (\$8,400) annually.

PRIVATE COST: This proposed amendment will cost private entities approximately eight thousand seven hundred fifty dollars (\$8,750) annually.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name: 10 CSR 26-2.071 Initial Release Response
Type of Rulemaking: Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision:	Estimated Annual Cost of Compliance
Petroleum Storage Tank Insurance Fund	\$8,400

III. Worksheet

Vapor monitoring: $(\$150 \times 1) + (\$20/\text{hr} \times 10 \text{ hrs}) = \$150 + \$200 = \$350/\text{site}$

Sites affected: $250 \text{ sites/year} \times 10\% \text{ with LNAPL} = 25 \text{ sites}$

Petroleum Storage Tank Insurance Fund responsible for 94% of sites¹
 $25 \times 0.94 = 24$

Annual cost to PSTIF of rule amendment: $\$350 \times 24 = \$8,400$

IV. Assumptions

10 CSR 26-2.071 Initial Release Response (formerly 10 CSR 20-10.061) is amended to require vapor monitoring when light non-aqueous phase liquid (also known as LNAPL or “free product”) petroleum is detected at an underground storage tank petroleum release site. The amended rule requires monitoring within 100-feet of the known extent of the LNAPL to ensure the material does not pose an acute risk to human health or a fire or explosion hazard.

The department assumes that most environmental consulting companies that would work on a petroleum release site on behalf of a responsible party own or have access to the vapor monitoring equipment necessary to meet the requirements of the amended rule. However, for the purpose of this fiscal note, we’ve assumed the consultant must rent the appropriate equipment at a cost of \$150 per week, that the monitoring can be completed in one week or less, the technician operating the equipment is paid \$20 per hour, that monitoring takes 2 hours per day for one week, or a total of 10 hours, that 10% of sites will have LNAPL, and 250 active sites per year.

¹ January 9, 2009, correspondence from Carol Eighmey, PSTIF Executive Director to Timothy Chibnall, Missouri Department of Natural Resources

The Petroleum Storage Tank Insurance Fund (PSTIF) insures approximately 94% of the tank sites to which this rule applies. The department does not expect the proposed rule to financially affect any other public entity.

Given the foregoing assumptions, the department estimates the annual cost to the PSTIF of the amendment of 10 CSR 26-2.071 will be \$8,400.

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

<u>Rule Number and Name</u> 10 CSR 26-2.071
<u>Type of Rulemaking</u> Amendment

II. SUMMARY OF FISCAL IMPACT

Classification by types of the business entities which would likely be affected:	Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Estimate as to the annual cost of compliance with the rule by the affected entities:
<ul style="list-style-type: none">• Retail automotive fueling stations• Fleet operations• Automotive service and repair facilities• Manufacturing operations• Other owners and operators of underground storage tank systems	>2,000 ¹	\$8,750 annual

III. Worksheet

Vapor monitoring: $(\$150 \times 1) + (\$20/\text{hr} \times 10 \text{ hrs}) = \$150 + \$200 = \$350/\text{site}$

Sites affected: $250 \text{ sites/year} \times 10\% \text{ with LNAPL} = 25 \text{ sites}$

Annual cost of rule amendment: $\$350 \times 25 = \$8,750.00$

IV. Assumptions

10 CSR 26-2.071 Initial Release Response (formerly 10 CSR 20-10.061) is amended to require vapor monitoring when light non-aqueous phase liquid (also known as LNAPL or "free product") petroleum is detected at an underground storage tank petroleum release

¹ The Missouri Department of Natural Resources tanks database lists approximately 1,900 registered underground storage tank owners; the department assumes that several hundred additional owners exist who have not registered with the department.

site. The amended rule requires monitoring within 100-feet of the known extent of the LNAPL to ensure the material does not pose an acute risk to human health or a fire or explosion hazard.

The department assumes that most environmental consulting companies that would work on a petroleum release site on behalf of a responsible party own or have access to the vapor monitoring equipment necessary to meet the requirements of the amended rule. However, for the purpose of this fiscal note, we've assumed the consultant must rent the appropriate equipment at a cost of \$150 per week, that the monitoring can be completed in one week or less, the technician operating the equipment is paid \$20 per hour, that monitoring takes 2 hours per day for one week, or a total of 10 hours, that 10% of sites will have LNAPL, and 250 active sites per year.

Given the foregoing assumptions, the department believes the private entity annual cost of the amendment of 10 CSR 26-2.071 will be \$8,750.00.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.062] 10 CSR 26-2.072 Initial Abatement Measures, [and] Site Check and Comparison with Default Target Levels. The department is moving the rule, amending section (1), adding a new section (2), and renumbering and amending the previous section (2).

PURPOSE: This amendment changes the rule number in the rule title and rule citations within the text to reflect movement of Division 20, Chapter 10 rules to Division 26, Chapter 2, clarifies authority for the rule, changes terms to be consistent with other rules within the chapter, requires contaminant concentrations be initially compared to default target levels, and specifies the content of the report to be submitted to the department.

(1) Unless directed to do otherwise by the department, owners and operators must perform the following abatement measures:

(E) Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with the site check required by *[10 CSR 20-10.052(1)(B)] 10 CSR 26-2.052(1)(B)* or the closure site assessment of *[10 CSR 20-10.072(1)] 10 CSR 26-2.062(1)*. In selecting sample types, sample locations, and measurement methods, the owner and operator must consider the nature of the stored substance, the type of backfill, depth to groundwater, and other factors as appropriate for identifying the presence and source of the release; and

(F) Investigate to determine the possible presence of *[free product] light non-aqueous phase liquid* and begin *[free product] light non-aqueous phase liquid* removal as soon as practicable in *[10 CSR 20-10.064] 10 CSR 26-2.074*.

(2) **Comparison with Default Target Levels.** Owners and operators shall compare the maximum soil and groundwater concentrations of chemicals of concern with the default target levels established by the department and complete an ecological screening assessment in accordance with the requirements of *10 CSR 26-2.075(17)*.

(A) If the maximum soil or groundwater concentrations of chemicals of concern at a site exceed the default target levels, the owner or operator shall either—

1. Undertake corrective action to achieve the default target levels; or

2. Conduct a full site characterization and risk assessment in accordance with the requirements of *10 CSR 26-2.073* through *10 CSR 26-2.082*.

(B) If the maximum soil and groundwater concentrations do not exceed the default target levels, light non-aqueous phase liquid is not present, and no ecological risk is identified, owners and operators may petition the department for a determination of no further action.

[(2)](3) Within twenty (20) days after release confirmation, owners and operators must submit a report to the department summarizing the initial abatement steps taken under section (1) of this rule and any resulting information and documenting the comparison of maximum concentrations of chemicals of concern with the default target levels and the ecological screening assessment.

filed as 10 CSR 20-10.062. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately sixteen thousand three hundred twenty dollars (\$16,320) annually.

PRIVATE COST: This proposed amendment will cost private entities approximately seventeen thousand two hundred eighty dollars (\$17,280) annually.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

AUTHORITY: sections 319.109 and 319.137, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]. This rule originally

FISCAL NOTE**PUBLIC COST****I. RULE NUMBER****Rule Number and Name:**

10 CSR26-2.072 Initial Abatement Measures, Site Check, and Comparison with Default Target Levels

Type of Rulemaking:

Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Petroleum Storage Tank Insurance Fund	\$16,320 (annual cost)

III. Worksheet

$\$80/\text{hour} \times 2 \text{ hours} = \160 per site

108 new releases on average per year

Petroleum Storage Tank Insurance Fund insures 94% of UST sites to which the rule applies¹

$108 \times 0.94 = 102$

$\$160 \times 102 = \$16,320 \text{ annual cost to PSTIF}$

IV. Assumptions

10 CSR 26-2.072 Initial Abatement Measures, Site Check, and Comparison with Default Target Levels (formerly 10 CSR 20-10.062) is amended to require underground storage tank owners and operators to compare contaminant concentrations measured during release confirmation with the default target levels in order to determine whether further action is required regarding the release. The previous rule did not specifically require that contaminant concentrations be compared to specific generic target levels. Rather this comparison and the specific generic target levels – then known as “action levels” – were provided for in guidance. This rule amendment places the comparison requirement and the specific generic target levels in rule.

¹ January 9, 2009, correspondence from Ms. Carol Eighmey, Executive Director, PSTIF to Timothy Chibnall, Missouri Department of Natural Resources

The generic target levels in the previously utilized guidance were lower than the default target levels specified in the rule amendment. Consequently, the change from the old action levels to the default target levels will result in a cost savings, as fewer sites will require further action due to the higher target levels used in the comparison.

The amended rule requires that, if contaminant concentrations exceed default target levels, the owner or operator either undertakes corrective action to meet the default target levels or conducts full site characterization and risk assessment in accordance with the requirements of 10 CSR 26-2.073 through 10 CSR 26-2.082. Under the previous rule and guidance, if contaminant concentrations exceeded action levels, the owner or operator could determine applicable cleanup levels through the completion of the Table 4 matrix in the Petroleum Storage Tank Closure Guidance Document. These then served as an alternative to using the action levels as cleanup levels. Under the amended rule, to determine and apply target levels other than the default target levels, the owner or operator must collect additional field data and complete a risk assessment. These activities will result in a greater cost when compared to the previous rule and guidance requirements.

Under the previous rule and guidance, three of the five possible cleanup levels for benzene allowable using Table 4 were higher than the soil type one risk-based target levels for residential land use allowed under the amended rule. However, the soil type one risk-based target levels for residential land use for ethyl benzene, toluene, and xylene are higher than any of the five possible Table 4 target levels for these contaminants. In addition, under the amended rule, final target levels are dependent on site-specific conditions, including, for instance, contaminants of concern, soil type, geology, and complete exposure pathways. As a result, in most cases the target levels applicable under the amended rule will be higher than those allowed using Table 4 in the preceding guidance. While affected entities will experience increased cost for site characterization and new costs for risk assessment, in most cases, the additional work and cost results in higher cleanup standards than allowable under the preceding rule and guidance. As a result, in most cases, less corrective action will be required to meet targets. Consequently, affected entities will experience significant corrective action cost savings. The result is that the amended rule will result in similar or lower overall project costs when compared to those associated with the preceding rule and guidance.

However, this fiscal note purposefully focuses only on the cost associated with the amendment of 10 CSR 26-2.072. By itself, the amended rule will increase costs due simply to the explicit requirement to compare detected contaminant concentrations to the default target levels, a requirement absent in the preceding rule. The department assumes that to make the comparison will take approximately 2 hours and that the comparison will be made by an engineer, geologist, or environmental scientist paid at a rate of \$80 per hour. The comparison pertains to new releases only; on average, 108 new releases were reported to the department during the years 2004 through 2008.

PSTIF staff indicate the fund insures approximately 94% of the facilities to which this rule applies.

Based on these assumptions, the amended rule will increase costs by an average of \$160 per site. The estimated annual cost of the rule amendment to the PSTIF is \$16,320.

FISCAL NOTE**PRIVATE COST****I. RULE NUMBER**

<u>Rule Number and Name</u> 10 CSR 26-2.072 Initial Abatement Measures, Site Check, and Comparison with Default Target Levels
<u>Type of Rulemaking</u> Amendment

II. SUMMARY OF FISCAL IMPACT

Classification by types of the business entities which would likely be affected:	Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Estimate as to the annual cost of compliance with the rule by the affected entities:
<ul style="list-style-type: none"> • Retail automotive fueling stations • Fleet operations • Automotive service and repair facilities • Manufacturing operations • Other owners and operators of underground storage tank systems 	>2,000 ¹	\$17,280 (annual)

III. Worksheet

\$80/hour x 2 hours = \$160 per site

108 new releases on average per year

\$160 x 108 = \$17,280 annual cost to affected private entities

¹ The Missouri Department of Natural Resources tanks database lists approximately 1,900 registered underground storage tank owners; the department assumes that several hundred additional owners exist who have not registered with the department.

IV. Assumptions

10 CSR 26-2.072 Initial Abatement Measures, Site Check, and Comparison with Default Target Levels (formerly 10 CSR 20-10.062) is amended to require underground storage tank owners and operators to compare contaminant concentrations measured during release confirmation with the default target levels in order to determine whether further action is required regarding the release. The previous rule did not specifically require that contaminant concentrations be compared to specific generic target levels. Rather this comparison and the specific generic target levels – then known as “action levels” – were provided for in guidance. This rule amendment places the comparison requirement and the specific generic target levels in rule.

The generic target levels in the previously utilized guidance were lower than the default target levels specified in the rule amendment. Consequently, the change from the old action levels to the default target levels will result in a cost savings, as fewer sites will require further action due to the higher target levels used in the comparison.

The amended rule requires that, if contaminant concentrations exceed default target levels, the owner or operator either undertake corrective action to meet the default target levels or conduct full site characterization and risk assessment in accordance with the requirements of 10 CSR 26-2.073 through 10 CSR 26-2.082. Under the previous rule and guidance, if contaminant concentrations exceeded action levels, the owner or operator could determine applicable cleanup levels through the completion of the Table 4 matrix in the Petroleum Storage Tank Closure Guidance Document. These then served as an alternative to using the action levels as cleanup levels. Under the amended rule, to determine and apply target levels other than the default target levels, the owner or operator must collect additional field data and complete a risk assessment. These activities will result in a greater cost when compared to the previous rule and guidance requirements.

Under the previous rule and guidance, three of the five possible cleanup levels for benzene allowable using Table 4 were higher than the soil type one risk-based target levels for residential land use allowed under the amended rule. However, the soil type one risk-based target levels for residential land use for ethyl benzene, toluene, and xylene are higher than any of the five possible Table 4 target levels for these contaminants. In addition, under the amended rule, final target levels are dependent on site-specific conditions, including, for instance, contaminants of concern, soil type, geology, and complete exposure pathways. As a result, in most cases the target levels applicable under the amended rule will be higher than those allowed using Table 4 in the preceding guidance. While affected entities will experience increased cost for site characterization and new costs for risk assessment, in most cases, the additional work and cost results in higher cleanup standards than allowable under the preceding rule and guidance. As a result, in most cases, less corrective action will be required to meet targets. Consequently, affected entities will experience significant corrective action cost savings. The result is that the amended rule will result in similar or lower overall project costs when compared to those associated with the preceding rule and guidance.

However, this fiscal note purposefully focuses only on the cost associated with the amendment of 10 CSR 26-2.072. By itself, the amended rule will increase costs due simply to the explicit requirement to compare detected contaminant concentrations to the default target levels, a requirement absent in the preceding rule. The department assumes that to make the comparison will take approximately 2 hours and that the comparison will be made by an engineer, geologist, or environmental scientist paid at a rate of \$80 per hour. The comparison pertains to new releases only; on average, 108 new releases were reported to the department during the years 2004 through 2008.

Based on these assumptions, the amended rule will increase costs by an average of \$160 per site. The estimated annual cost of the rule amendment is \$17,280.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.063] **10 CSR 26-2.073 Initial Site Characterization.** The department is moving the rule and amending sections (1) and (2).

PURPOSE: This amendment changes the rule number in the rule title and rule citations within the text to reflect movement of Division 20, Chapter 10 rules to Division 26, Chapter 2, clarifies authority for the rule, changes terms to be consistent with other rules within the chapter, and specifies the content of the report to be submitted to the department.

(1) Unless directed to do otherwise by the department, owners and operators must assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in [10 CSR 20-10.060] **10 CSR 26-2.061** and [10 CSR 20-10.061] **10 CSR 26-2.071**. This information must include, but is not necessarily limited to, the following:

(C) Results of the site check required under [10 CSR 20-10.062(1)(E)] **10 CSR 26-2.072(1)(E)**; and

(D) Results of the [free product] **light non-aqueous phase liquid** investigations required under [10 CSR 20-10.062(1)(F)] **10 CSR 26-2.072(1)(F)** to be used by owners and operators to determine whether [free product] **light non-aqueous phase liquid** must be recovered under [10 CSR 20-10.064] **10 CSR 26-2.074**.

(2) Within forty-five (45) days of release confirmation, owners and operators *[must submit]* **shall document the results of the initial characterization, including** the information collected in compliance with section (1) of this rule, **in a report** to the department or in a format and according to the schedule required by the department.

AUTHORITY: sections 319.109 and 319.137, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]. This rule originally filed as 10 CSR 20-10.063. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the

Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.064] **10 CSR 26-2.074 [Free-Product Removal] Light Non-Aqueous Phase Liquid (LNAPL) Removal.** The department is moving the rule and amending section (1).

PURPOSE: This amendment changes the rule number in the rule title and rule citations within the text to reflect movement of Division 20, Chapter 10 rules to Division 26, Chapter 2, changes the language of the rule consistent with other rules in the chapter, clarifies existing requirements, clarifies authority for the rule, and requires the submittal of a work plan.

(1) At sites where the investigation reveals [free product] **light non-aqueous phase liquid (LNAPL)** under [10 CSR 20-10.062(1)(F)] **10 CSR 26-2.072(1)(F)**, owners and operators must **begin to remove [as much] free [product as practicable as determined by] and mobile LNAPL from the environment within thirty (30) days of the discovery of the LNAPL or according to a schedule approved by the department. Initial removal efforts must continue until a work plan for LNAPL removal required at 10 CSR 26-2.079(5)(A) is submitted to and approved by the department. LNAPL must be removed to the extent practicable as determined by the department.** Any actions initiated under [10 CSR 20-10.061–10 CSR 20-10.063] **10 CSR 26-2.071–10 CSR 26-2.073** or preparation for actions required under [10 CSR 20-10.065–10 CSR 20-10.066] **10 CSR 26-2.075–10 CSR 26-2.079** must also be continued. In meeting the requirements of this rule, owners and operators must—

(A) Remove [free product] **LNAPL** to minimize the spread of contamination (**free and mobile LNAPL and associated dissolved-phase groundwater contamination**) into previously uncontaminated zones and to mitigate fire, explosion, and acute human health risks associated with the non-aqueous phase liquid. The recovery and disposal techniques must be appropriate to the hydrogeologic conditions at the site. Recovered by-products must be treated, discharged, or disposed in compliance with applicable local, state, and federal regulations;

(B) Use abatement of [free product] **LNAPL migration and mitigation of acute risks** as [a] minimum objectives for [free product] **LNAPL** removal;

(D) Prepare and submit to the department a [free-product] **LNAPL** removal report, within forty-five (45) days after confirming a release, unless otherwise directed by the department. The report shall provide at least the following information:

1. The name of the person(s) responsible for implementing the [free product] **LNAPL** removal measures;
2. The estimated quantity, type, and thickness of [free product] **LNAPL** observed or measured in wells, boreholes, and excavations;
3. The type of [free product] **LNAPL** recovery system used;
4. Whether any discharge will take place on-site or off-site during the recovery operation and the location of this discharge;
5. The type of treatment applied to, and the effluent quality expected from, any discharge;
6. The steps that have been or are being taken to obtain necessary permits for any discharge; and
7. The disposition of the recovered [free product] **LNAPL**.

AUTHORITY: sections 319.109 and 319.137, RSMo Supp. [1989] 2008 [and 644.026, RSMo Supp. 1993]. This rule originally filed as 10 CSR 20-10.064. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately one hundred fifteen thousand two hundred dollars (\$115,200) annually.

PRIVATE COST: This proposed amendment will cost private entities approximately one hundred twenty thousand dollars (\$120,000) annually.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name:

10 CSR 26-2.074 Light Non-Aqueous Phase Liquid (LNAPL) Removal

Type of Rulemaking:

Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Petroleum Storage Tank Insurance Fund	\$115,200 (annual)

III. Worksheet

Data analysis: $\$80/\text{hr} \times 40 \text{ hrs} = \$3,200$

Work plan preparation: $\$80/\text{hr} \times 20 \text{ hrs} = \$1,600$

Total per site cost increase of rule amendment: $\$3,200 + \$1,600 = \$4,800$

Sites with LNAPL, annually: $250 \times 10\% = 25$

Petroleum Storage Tank Insurance Fund insures 94% of sites to which this rule applies¹

$25 \times 0.94 = 24$

Total potential annual cost to PSTIF of rule amendment:

$(\$3,200 + \$1,600) \times 24 = \$115,200$

IV. Assumptions

10 CSR 26-2.074 Light Non-Aqueous Phase Liquid (LNAPL) Removal (formerly 10 CSR 20-10.064 Free Product Removal) is amended to require the onset of LNAPL removal within 30 days of discovery, to specify that the initial removal activities must continue until a removal work plan is approved by the department, to add mitigation of fire, explosion, and acute health risks as a goal of LNAPL removal, to add "mitigation of acute risks" as a minimum objective of removal, and to require the submittal of a LNAPL work plan to the department.

¹ January 9, 2009, correspondence from Carol Eighmey, Executive Director, PSTIF to Timothy Chibnall, Missouri Department of Natural Resources

Based on past experience with the recovery of LNAPL at underground storage tank release sites, the department believes only the following new requirements have the potential to increase costs when compared to the requirements of the preceding rule and guidance: 1) begin removal actions within 30 days and 2) submit a LNAPL removal work plan to the department.

The department assumes that the 30-day requirement might increase costs because owners and operators will pay higher rates to facilitate rapid mobilization by a removal contractor. However, the department feels the increased cost, if any, will be negligible.

The department assumes that the development of a LNAPL removal work plan will increase costs relative to those associated with the preceding rule and guidance. We assume the plan will be prepared by an engineer, geologist, or environmental scientist working at a rate of \$80 per hour. To develop the plan will require the collection of specific field data, some of which will be analyzed in a laboratory, in order to plan the most efficient and effective means of removal. These costs will vary depending on the volume of LNAPL in the environment and the extent to which it has spread. For the purposes of this fiscal note, we have assumed the necessary field work and laboratory analyses will cost \$15,000. However, much of this field work would be required under current regulations and associated guidance. Therefore, the field work cost is not included in the cost of the amended rule. We assume an analysis of the data by qualified personnel will require 40 hours and that preparation of the report will require 20 hours. We assume 10% of new release sites will have LNAPL and that 250 new release sites will be reported to the department annually.

Based on these assumptions, the estimated increased cost to PSTIF of this rule for a site having LNAPL is \$4,800 per site. The total estimated annual cost to PSTIF is \$115,200.

*However, the preceding rule (10 CSR 20-10.064) and guidance (UST Closure Guidance Document) required the removal of LNAPL “to the extent practicable as determined by the department.” While the amended rule retains this language, it also allows the owner or operator to utilize the risk-based corrective action process in new rules and revised guidance to determine whether further removal is warranted based on risks to human health and the environment. The new rules and guidance formalize this risk assessment process and the guidance provides for specific evaluation tools to evaluate the practicability of LNAPL removal. The previous rule and guidance did neither. While amended rule 10 CSR 26-2.074 appears to increase costs associated with sites that have LNAPL, when the new risk-based corrective action process provided for in new and amended rules 10 CSR 26-2.075 through 10 CSR 26-2.082 and revised guidance is considered as a whole, the cost to manage LNAPL potentially significantly decreases in comparison to costs associated with the preceding rule and guidance. Most notably, the risk-based corrective action rules and guidance define provide a much more predictable process and a variety of means by which LNAPL removal activities may be stopped. The department anticipates this will mean that owners and operators will not be required to remove as much LNAPL as previously and that LNAPL removal activities will end more quickly. The department believes these factors will result in significant overall cost savings even when the additional costs associated with the amendments to 10 CSR 26-2.074 are considered.

Based on the foregoing, when considered within the context of the overall risk-based corrective action process provided for in new and amended rules 10 CSR 26-2.075 through 10 CSR 26-2.082 and the revised guidance, the cost of LNAPL removal and management potentially decreases when compared to the costs associated with the preceding rule and guidance.

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name 10 CSR 26-2.074 Light Non-Aqueous Phase Liquid (LNAPL) Removal
Type of Rulemaking Amendment

II. SUMMARY OF FISCAL IMPACT

Classification by types of the business entities which would likely be affected:	Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Estimate as to the annual cost of compliance with the rule by the affected entities:
<ul style="list-style-type: none">• Retail automotive fueling stations• Fleet operations• Automotive service and repair facilities• Manufacturing operations• Other owners and operators of underground storage tank systems	>2,000 ¹	\$120,000* (annual)

III. Worksheet

Data analysis: \$80/hr x 40 hrs = \$3,200

Work plan preparation: \$80/hr x 20 hrs = \$1,600

Sites with LNAPL, annually: 250 x 10% = 25

Total potential annual cost of rule amendment to affected private entities:
($\$3,200 + \$1,600$) x 25 = \$120,000

¹ The Missouri Department of Natural Resources tanks database lists approximately 1,900 registered underground storage tank owners; the department assumes that several hundred additional owners exist who have not registered with the department.

IV. Assumptions

10 CSR 26-2.074 Light Non-Aqueous Phase Liquid (LNAPL) Removal (formerly 10 CSR 20-10.064 Free Product Removal) is amended to require the onset of LNAPL removal within 30 days of discovery, to specify that the initial removal activities must continue until a removal work plan is approved by the department, to add mitigation of fire, explosion, and acute health risks as a goal of LNAPL removal, to add “mitigation of acute risks” as a minimum objective of removal, and to require the submittal of a LNAPL work plan to the department.

Based on past experience with the recovery of LNAPL at underground storage tank release sites, the department believes only the following new requirements have the potential to increase costs when compared to the requirements of the preceding rule and guidance: 1) begin removal actions within 30 days and 2) submit a LNAPL removal work plan to the department.

The department assumes that the 30-day requirement might increase costs because owners and operators might pay higher rates to facilitate relatively rapid mobilization by a removal contractor. However, the department feels the increased cost, if any, will be negligible.

The department assumes that the development of a LNAPL removal work plan will increase costs relative to those associated with the preceding rule and guidance. We assume the plan will be prepared by an engineer, geologist, or environmental scientist working at a rate of \$80 per hour. To develop the plan will require the collection of specific field data, some of which will be analyzed in a laboratory, in order to plan the most efficient and effective means of removal. These costs will vary depending on the volume of LNAPL in the environment and the extent to which it has spread. However, the same or very similar data was needed to meet the requirements of the rule prior to the proposed amendments. Therefore, the department has not included the cost of collecting field data in this analysis.

We assume an analysis of the data by qualified personnel will require 40 hours and that preparation of the report will require 20 hours. We assume 10% of new release sites will have LNAPL and that 250 new release sites will be reported to the department annually.

Based on these assumptions, the total potential cost of this rule amendment is \$120,000.

*However, the preceding rule (10 CSR 20-10.064) and guidance (UST Closure Guidance Document) required the removal of LNAPL “to the extent practicable as determined by the department.” While the amended rule retains this language, it also allows the owner or operator to utilize the risk-based corrective action process in new rules and revised guidance to determine whether further removal is warranted based on risks to human health and the environment. The new rules and guidance formalize this risk assessment process and the guidance provides for specific evaluation tools to evaluate the

practicability of LNAPL removal. The previous rule and guidance did neither. While amended rule 10 CSR 26-2.074 appears to increase costs associated with sites that have LNAPL, when the new risk-based corrective action process provided for in new and amended rules 10 CSR 26-2.075 through 10 CSR 26-2.082 and revised guidance is considered as a whole, the cost to manage LNAPL potentially significantly decreases in comparison to costs associated with the preceding rule and guidance. Most notably, the risk-based corrective action rules and guidance define provide a much more predictable process and a variety of means by which LNAPL removal activities may be stopped. The department anticipates this will mean that owners and operators will not be required to remove as much LNAPL as previously and that LNAPL removal activities will end more quickly. The department believes these factors will result in significant overall cost savings even when the additional costs associated with the amendments to 10 CSR 26-2.074 are considered.

Based on the foregoing, when considered within the context of the overall risk-based corrective action process provided for in new and amended rules 10 CSR 26-2.075 through 10 CSR 26-2.082 and the revised guidance, the cost of LNAPL removal and management potentially decreases when compared to the costs associated with the preceding rule and guidance.

In addition, for sites insured by or otherwise eligible for coverage from the Petroleum Storage Tank Insurance Fund, costs to investigate, plan for, and implement LNAPL removal activities are generally reimbursed by the fund.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 10—Underground Storage Tanks—Technical Regulations

PROPOSED RESCISSION

10 CSR 20-10.065 Investigations for Soil and Groundwater Cleanup. This rule described procedures for soil and groundwater investigations subsequent to the discovery of a release from a regulated underground storage tank.

PURPOSE: This rule is being rescinded as it is replaced by proposed rule 10 CSR 26-2.076. The proposed rule addresses the same subject matter but is substantively different from this rule.

AUTHORITY: sections 319.109, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993. Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Rescinded: Filed Feb. 13, 2009.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 10—Underground Storage Tanks—Technical Regulations

PROPOSED RESCISSION

10 CSR 20-10.066 Corrective Action Plan. This rule provided requirements for corrective action plans for the cleanup of releases from underground storage tanks.

PURPOSE: This rule is being rescinded as it is replaced by proposed rule 10 CSR 26-2.076. The proposed rule addresses the same subject matter but is substantively different from this rule to accommodate processes and options provided by a risk-based corrective action process.

AUTHORITY: sections 319.109, Supp. 1989 and 644.026, RSMo Supp. 1993. Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Rescinded: Filed Feb. 13, 2009.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 10—Underground Storage Tanks—Technical Regulations

PROPOSED RESCISSION

10 CSR 20-10.067 Public Participation. This rule established procedures for public participation when corrective action was required.

PURPOSE: This rule is being rescinded as it is replaced by proposed rule 10 CSR 26-2.080. The proposed rule addresses the same subject matter but in a substantively different manner.

AUTHORITY: sections 319.109, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993. Original rule filed April 2, 1990, effective Sept. 28, 1990. Rescinded: Filed Feb. 13, 2009.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 10—Underground Storage Tanks—Technical
Regulations**

PROPOSED RESCISSION

10 CSR 20-10.068 Risk-Based Clean-Up Levels. This rule provided for clean-up levels for corrective action and site characterization related to underground storage tank releases, set forth deed notice language to assure release sites were not used in a manner that would pose unacceptable risk, and required that release sites be ranked and resources allocated accordingly.

PURPOSE: This rule is being rescinded as it is replaced by proposed rule 10 CSR 26-2.077. The proposed rule addresses the same subject matter but provides a process and methodology for the development and application of risk-based clean-up levels substantively different from that provided for in this rule.

AUTHORITY: sections 319.111, RSMo 1994 and 319.109 and 319.137, RSMo Supp. 1996. Original rule filed Jan. 2, 1996, effective Aug. 30, 1996. Amended: Filed Jan. 14, 1997, effective Sept. 30, 1997. Rescinded: Filed Feb. 13, 2009.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

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**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical
Regulations**

PROPOSED AMENDMENT

[10 CSR 20-10.070] **10 CSR 26-2.060 Temporary Closure.** The department is moving the rule and amending sections (1) and (3).

PURPOSE: This amendment changes the rule number in the rule title and rule citations within the text to reflect movement of Division 20, Chapter 10 rules to Division 26, Chapter 2 and clarifies authority for the rule.

(1) When an underground storage tank (UST) system is temporarily closed, owners and operators must continue operation and maintenance of corrosion protection in [10 CSR 20-10.031] **10 CSR 26-**

2.031 and release detection in [10 CSR 20-10.040] **10 CSR 26-2.040.** Release reporting, investigation, and corrective action in [10 CSR 20-10.050–10 CSR 20-10.067] **10 CSR 26-2.050–10 CSR 26-2.082** must be performed if a release is suspected or confirmed. If the UST system is empty, release detection is not required. The UST system is empty when all materials have been removed so that no more than one inch (1") (or two and one-half (2.5) centimeters) of residue or three-tenths percent (0.3%) by weight of the total capacity of the UST system remains.

(3) When a UST system is temporarily closed for more than twelve (12) months, owners and operators must permanently close the UST system if it does not meet either performance standards in [10 CSR 20-10.020] **10 CSR 26-2.020** for new UST systems or the upgrading requirements in [10 CSR 20-10.021] **10 CSR 26-2.021** except that the spill and overfill equipment requirements do not have to be met. Owners and operators must permanently close the substandard UST systems at the end of this twelve (12)-month period in accordance with [10 CSR 20-10.071–10 CSR 20-10.074] **10 CSR 26-2.061–10 CSR 26-2.064**, unless the department provides an extension of the twelve (12)-month temporary closure period. Owners and operators must complete a site assessment in accordance with [10 CSR 20-10.072] **10 CSR 26-2.062** before such an extension can be applied for.

AUTHORITY: sections 319.107 and 319.111, RSMo [Supp. 1989] 2000 and [644.026] sections 319.015 and 319.137, RSMo Supp. [1993] 2008. This rule originally filed as 10 CSR 20-10.070. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical
Regulations**

PROPOSED AMENDMENT

[10 CSR 20-10.071] **10 CSR 26-2.061 Permanent Closure and Changes in Service.** The department is moving the rule and amending sections (1), (3), and (4).

PURPOSE: This amendment changes the rule number in the rule title and rule citations within the text to reflect movement of Division 20, Chapter 10 rules to Division 26, Chapter 2, clarifies authority for the rule, and corrects the title of guidance referred to in section (4).

(1) Owners and operators must notify the department in writing, on forms provided by the department, at least thirty (30) days before beginning either permanent closure or a change in service of an underground storage tank (UST) in sections (2) and (3) of this rule or within another reasonable time period determined by the department, unless this action is in response to corrective action. The required assessment of the excavation zone under [10 CSR 20-10.072] **10 CSR 26-2.062** must be performed after notifying the department but before completion of the permanent closure or a change in service.

(3) Continued use of a UST system to store a nonregulated substance is a change in service. Before a change in service, owners and operators must empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in [10 CSR 20-10.072] **10 CSR 26-2.062**.

(4) Owners and operators shall follow a written procedure. To comply with this rule, the department's [UST] **Tanks** Closure Guidance Document may be used as a written procedure. It may be supplemented with the following cleaning and closure procedures:

AUTHORITY: sections 319.105, 319.107, and 319.111, RSMo [Supp. 1994] 2000 and [644.026] section 319.137, RSMo Supp. [1998] 2008. This rule originally filed as 10 CSR 20-10.071. Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Amended: Filed April 1, 1999, effective March 30, 2000. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.072] **10 CSR 26-2.062 Assessing the [Site] Property at Closure or Change in Service.** The department is moving the rule, amending section (1), adding sections (2) and (5)–(10), and renumbering and amending the previous sections (2) and (3).

PURPOSE: This amendment changes the rule number in the rule title and rule citations within the text to reflect movement of Division 20, Chapter 10 rules to Division 26, Chapter 2, clarifies authority for the rule, changes terms to be consistent with risk-based corrective action terms used in other rules within the chapter, requires actions to determine whether a release has occurred from an underground storage tank, specifies the target levels applicable when a tank system is closed or undergoes a change in service so that the target levels are consistent with those provided for in other rules in the chapter, presents requirements regarding the type of backfill that must be used to fill a tank excavation to ensure protection of human health and the environment, and specifies that a closure report must be submitted to the department within sixty (60) days of completion of closure or change in use activities so that the department is made aware of potential problems in a timely manner.

(1) Before permanent closure or a change in service is completed, owners and operators must measure for the presence of a release where contamination is most likely to be present at the underground storage tank (UST) [site] system. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release. The requirements of this section are satisfied if vapor monitoring or groundwater monitoring in [10 CSR 20-10.043(E) and (F)] **10 CSR 26-2.043(E) and (F)** is operating at the time of closure and indicates no release has occurred.

(2) Unless vapor monitoring or groundwater monitoring conducted in accordance with **10 CSR 26-2.043(E) and (F)** indicates no release has occurred, subsequent to the removal of a tank and system components or completion of a change in service, actions must be taken to determine whether the tank or any of the system components have released petroleum into the environment. Such actions include field screening and the collection of soil and, as warranted, groundwater samples for laboratory analysis.

[(2)](3) If contaminated soils, contaminated groundwater, vapors from contamination, or free product as a liquid or vapor is discovered under sections (1) or (2) of this rule, or by any other manner, owners and operators must begin release response and corrective action in [10 CSR 20-10.060–10 CSR 20-10.067] **10 CSR 26-2.070–10 CSR 26-2.082**.

[(3)](4) Owners and operators shall follow a written procedure governing tank closure activities. To comply with this rule, the department's [UST] **Tanks** Closure Guidance Document may be used as a written procedure. Other written procedures may be used with prior written approval of the department.

(5) **Applicable Target Levels.** The default target levels established by the department shall initially apply when assessing a UST system at closure or change in service. The tier 1 residential soil type one risk-based target levels may be applied only when the conditions in section (7) of this rule are met.

(6) **Default Target Levels.** Owners and operators shall compare the maximum concentration of each chemical of concern detected in soil and groundwater samples obtained during UST closure or change in service with the default target levels.

(A) If the maximum concentration of one (1) or more chemicals of concern in soil or groundwater samples obtained during UST closure or change in service exceeds a default target level, owners and operators shall—

1. Conduct corrective action to meet the default target levels;

2. Meet the conditions in section (7) of this rule to apply tier 1 residential soil type one risk-based target levels; or

3. If the default target levels will not be applied to the site, begin release response and corrective action in accordance with the provisions of 10 CSR 26-2.070–10 CSR 26-2.082.

(B) If the maximum concentrations for all chemicals of concern in soil or groundwater samples obtained during UST closure or change in service are less than the default target levels or, if the conditions of section (7) of this rule are met, the tier 1 residential soil type one risk-based target levels, owners and operators shall submit all required tank closure or change in service documentation as specified at section (10) of this rule, and the department will make a determination of no further action documented in a letter to the owner, operator, or both.

(7) Conditions for Using Tier 1 Residential Soil Type One Risk-Based Target Levels. Tier 1 residential soil type one risk-based target levels may be applied at closure or change in service without first fully characterizing the site only if each of the following conditions are met:

(A) A registered geologist or professional engineer has determined the groundwater domestic use pathway is incomplete under current and future site conditions in accordance with 10 CSR 26-2.075(10) and 10 CSR 26-2.075(16)(C); and

(B) Samples obtained during UST closure or change in service are representative of the highest concentrations of chemicals of concern in soil and groundwater at the site.

1. If available information indicates that contamination associated with a tank system is beyond the immediate boundaries of the UST system or that soil and groundwater samples obtained during UST closure do not represent maximum concentrations for all chemicals of concern in soil or groundwater, the department may require site characterization before allowing tier 1 risk-based target levels to be applied at closure or change in service.

(8) Comparison to Tier 1 Residential Soil Type One Risk-Based Target Levels. If the conditions of section (7) of this rule are met, owners and operators may compare the maximum concentration for each chemical of concern from soil and groundwater samples obtained during UST closure or change in service with the tier 1 residential soil type one risk-based target levels.

(A) If the maximum concentration of one (1) or more chemicals of concern in soil or groundwater samples obtained during UST closure or change in service exceeds the applicable tier 1 residential soil type one risk-based target levels, owners and operators shall—

1. Conduct corrective action to meet the applicable tier 1 residential soil type one risk-based target levels; or

2. Begin release response and corrective action in accordance with the provisions of 10 CSR 26-2.070–10 CSR 26-2.082.

(B) If the maximum concentration of each chemical of concern in soil or groundwater samples obtained during UST closure or change in service is less than the applicable tier 1 residential soil type one risk-based target levels and the conditions of section (7) of this rule have been met, owners and operators shall submit all required tank closure documentation as specified at section (10) of this rule, and the department will make a determination of no further action documented in a letter to the owner, operator, or both.

(9) If the conditions of section (7) of this rule are met and tier 1 residential soil type one risk-based target levels are determined to apply, all excavations associated with the tank pit, piping runs, and dispensers must be backfilled with a material having the characteristics of soil type one, two, or three. The material placed into the excavations must be compacted to meet or exceed the porosity and density of at least soil type one. If the excavations are filled with a granular material or material not having the same properties as soil type one, two, or three, tier 1 risk-based target levels for soil type one shall apply to the filled areas unless the department determines that the use of soil type one risk-based target levels is not adequately protective of human or ecological receptors, in which case the department may require the owner or operator to develop tier 2 site-specific target levels for the material.

(10) Documentation. A closure report signed by the tank owner or operator must be submitted to the department within sixty (60) days of completion of closure or change in use activities, unless otherwise approved in writing by the department. The closure report shall use forms provided by the department as the basis of the report.

AUTHORITY: section[s] 319.111, RSMo [Supp. 1989] 2000 and [644.026] section 319.137, RSMo Supp. [1993] 2008. This rule originally filed as 10 CSR 20-10.072. Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities approximately eighty-one thousand dollars (\$81,000) annually.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

FISCAL NOTE**PRIVATE COST****I. RULE NUMBER**

<u>Rule Number and Name</u>
10 CSR 26-2.062 Assessing the Property at Closure or Change in Service
<u>Type of Rulemaking</u>
Amendment

II. SUMMARY OF FISCAL IMPACT

Classification by types of the business entities which would likely be affected:	Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Estimate as to the annual cost of compliance with the rule by the affected entities:
<ul style="list-style-type: none"> • Retail automotive fueling stations • Fleet operations • Automotive service and repair facilities • Manufacturing operations • Other owners and operators of underground storage tank systems 	>2,000 ¹	\$81,000 annual cost ²

III. Worksheet

Backfill requirements of amended rule:

\$5.00/yd x 100 yds/project = \$500.00

Amended rule 60-day report submittal requirement:

\$100/project = \$100.00

Total potential increased cost per underground storage tank closure project:

\$500 + \$100 = \$600.00

¹ The Missouri Department of Natural Resources tanks database lists approximately 1,900 registered underground storage tank owners; the department assumes that several hundred additional owners exist who have not registered with the department.

² This is an annual, not aggregate, cost.

Average number of tanks closed per year:
270

Assume 2 tanks per facility:
 $270/2 = 135$

Annual cost of rule amendment:
 $135 \times \$600 = \$81,000$

IV. Assumptions

The department proposes to move within the Code of State Regulations and otherwise amend 10 CSR 20-10.072. We propose to move the rule to 10 CSR 26-2.062. Other amendments include:

- requiring soil used to backfill the underground storage tank (UST) pit created upon tank removal to have the characteristics of soil type one, two, or three (soil types are explained at 10 CSR 26-2.076(11)(C)), and
- submittal of a UST closure report within 60 days of the completion of UST closure activities

As calculated above, the department estimates the cost of the proposed backfill requirements to be \$500 per site. Assuming 270 USTs at 135 facilities will be closed annually, the annual cost of the backfill requirements is \$67,500.

The proposed rule is intended to replace the March 1996 Underground Storage Tank Closure Guidance Document (CGD). Under the CGD, owners and operators needed to submit a UST Closure Report to the department to demonstrate that the closure was conducted in accordance with relevant requirements and guidance provisions. However, the CGD did not specify a deadline for report submittal. Under the subject proposed amended rule, the department is requiring the UST Closure Report be submitted within 60 days of the completion of closure activities. As calculated above, we estimate this new deadline will increase the cost of a UST closure by \$100. Assuming 270 USTs at 135 facilities will be closed annually, the annual cost of the reporting requirement deadline is \$13,500.

The department anticipates the proposed amended rule will increase the cost to close a UST by \$600. The annual cost of the proposed rule is estimated to be \$81,000.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.073] **10 CSR 26-2.063 Applicability to Previously Closed Underground Storage Tank Systems.** The department is moving the rule and amending section (1).

PURPOSE: This amendment changes the rule number in the rule title and rule citations within the text to reflect movement of Division 20, Chapter 10 rules to Division 26, Chapter 2 and clarifies authority for the rule.

(1) The department may require that the owner and operator of an underground storage tank (UST) system permanently closed before December 22, 1988, must assess the excavation zone and close the UST system in accordance with [10 CSR 20-10.070–10 CSR 20-10.074] **10 CSR 26-2.060–10 CSR 26-2.064** if releases from the UST, in the judgment of the department, may pose a current or potential threat to human health and the environment.

AUTHORITY: section[s] 319.III, RSMo [Supp. 1989] **2000** and [644.026] section 319.137, RSMo Supp. [1993] **2008**. This rule originally filed as 10 CSR 20-10.073. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [10]2—Underground Storage Tanks—Technical Regulations

PROPOSED AMENDMENT

[10 CSR 20-10.074] **10 CSR 26-2.064 Closure Records.** The department is moving the rule and amending section (1).

PURPOSE: This amendment changes the rule number in the rule title and rule citations within the text to reflect movement of Division 20, Chapter 10 rules to Division 26, Chapter 2 and clarifies authority for the rule.

(1) Owners and operators must maintain records in accordance with [10 CSR 20-10.034] **10 CSR 26-2.034** that are capable of demonstrating compliance with closure requirements in [10 CSR 20-10.070–10 CSR 20-10.074] **10 CSR 26-2.060–10 CSR 26-2.064**. The results of the site assessment in [10 CSR 20-10.072] **10 CSR 10-26.062** must be maintained for at least three (3) years after completion of permanent closure or change in service in one (1) of the following ways:

AUTHORITY: sections 319.107 and 319.III, RSMo [Supp. 1989] **2000** and [644.026] section 319.137, RSMo Supp. [1993] **2008**. This rule originally filed as 10 CSR 20-10.074. Original rule filed April 2, 1990, effective Sept. 28, 1990. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.090] **10 CSR 26-3.090 Applicability.** The department is moving the rule and amending sections (1)–(5).

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) Rules [10 CSR 20-11.090–10 CSR 20-11.115] **10 CSR 26-3.090–10 CSR 26-3.115** apply to owners and operators of all petroleum underground storage tank (UST) systems except as otherwise provided in this rule.

(2) Owners and operators of petroleum UST systems are subject to these requirements if they are in operation on or after the date for compliance established in [10 CSR 20-11.091] **10 CSR 26-3.091**.

(3) State and federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States are exempt from the requirements of [10 CSR 20-11.090–10 CSR 20-11.115] **10 CSR 26-3.090–10 CSR 26-3.115**.

(4) The requirements of [10 CSR 20-11.090–10 CSR 20-11.115] **10 CSR 26-3.090–10 CSR 26-3.115** do not apply to owners and operators of any deferred or excluded UST system described in [10 CSR 20-10.010] **10 CSR 26-2.010**(2) or (3).

(5) If the owner and operator of a petroleum UST system are separate persons, only one (1) person is required to demonstrate financial responsibility; however, both parties are liable in the event of non-compliance. Regardless of which party complies, the date set for compliance at a particular facility is determined by the characteristics of the owner as set forth in [10 CSR 20-11.091] **10 CSR 26-3.091**.

AUTHORITY: section[s] 319.114, RSMo [Supp. 1989 and 644.026, RSMo Supp. 1993] 2000. This rule originally filed as 10 CSR 20-11.090. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.091] **10 CSR 26-3.091 Compliance Dates.** The department is moving the rule and amending section (1).

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change

in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) Owners of petroleum underground storage tanks (USTs) shall comply with the requirements of [10 CSR 20-11.090–10 CSR 20-11.115] **10 CSR 26-3.090–10 CSR 26-3.115** by the following dates:

AUTHORITY: section[s] 319.114, RSMo [Supp. 1989 and 644.026, RSMo Supp. 1993] 2000. This rule originally filed as 10 CSR 20-11.091. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.092] **10 CSR 26-3.092 Definitions of Financial Responsibility Terms.** The department is moving the rule and amending section (1).

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) The definitions set forth in 40 CFR 280.92, July 1, 1998, published by the Office of the Federal Register, National Archives and Records Administration and available from the Superintendent of Documents, PO Box 371954, Pittsburgh, PA 15250-7954 or at www.gpoaccess.gov/nara, are incorporated by reference, subject to the following additions, modifications, substitutions, or deletions. **This rule does not incorporate any subsequent amendments or additions.**

(A) The definitions set forth in this rule apply to terms when used in [10 CSR 20-11.090] **10 CSR 26-3.090** through [10 CSR 20-11.115] **10 CSR 26-3.115**. In addition, the definitions in [10 CSR

20-10.012/ 10 CSR 26-2.012 apply to the terms used in this chapter unless defined otherwise in this rule or in the rule in which the term is used. Modifications and additions to specific definitions are—

1. The definition for “Director of the Implementing Agency” in 40 CFR 280.92, is not incorporated in this rule;

2. At the end of the definition of “Financial Reporting Year” in 40 CFR 280.92, as incorporated in this rule, add the following sentence: Financial reporting year may comprise a fiscal or calendar year period;

3. In the definition of “provider of financial assurance” in 40 CFR 280.92, as incorporated into this rule, substitute “[10 CSR 20-11.095/ 10 CSR 26-3.095 through [10 CSR 20-11.103/ 10 CSR 26-3.103]” for “section 280.95–280.103,” delete “issuer of a state-required mechanism,” and substitute “the Petroleum Storage Tank Insurance Fund” for “a state”; and

4. In the definition of “termination” in 40 CFR 280.92 as incorporated into this rule, substitute “in [10 CSR 20-11.097(2)/ 10 CSR 26-3.097(2)]” for “under section 260.97(b)(1).”

AUTHORITY: section[s] 319.114, RSMo [1994 and 319.129 and 644.026, RSMo Supp. 1998] 2000. This rule originally filed as 10 CSR 20-11.092. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Amended: Filed Jan. 14, 1997, effective Sept. 30, 1997. Amended: Filed April 1, 1999, effective March 30, 2000. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.093/ 10 CSR 26-3.093 **Amount and Scope of Required Financial Responsibility.** The department is moving the rule.

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change

in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

AUTHORITY: section[s] 319.114, RSMo [Supp. 1989 and 644.026, RSMo Supp. 1993] 2000. This rule originally filed as 10 CSR 20-11.093. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.094/ 10 CSR 26-3.094 **Allowable Mechanisms and Combinations of Mechanisms.** The department is moving the rule, amending sections (1) and (2), and adding Form 1 to the rule.

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) Subject to the limitations of sections (2) and (3) of this rule—

(A) An owner or operator, including a local government owner or operator, may use any one (1) or combination of the mechanisms listed in [10 CSR 20-11.095/ 10 CSR 26-3.095 through [10 CSR 20-11.103/ 10 CSR 26-3.103] to demonstrate financial responsibility under [10 CSR 20-11.090/ 10 CSR 26-3.090 through [10 CSR 20-11.115/ 10 CSR 26-3.115] for one (1) or more underground storage tanks (USTs); provided, that the total scope and amounts assured meet the requirements of [10 CSR 20-11.093/ 10 CSR 26-3.093; and

(B) A local government owner or operator may use any one (1) or combination of the mechanisms listed in [10 CSR 20-11.112/ 10 CSR 26-3.112 through [10 CSR 20-11.115/ 10 CSR 26-3.115] to demonstrate financial responsibility under [10 CSR 20-11.090/ 10 CSR 26-3.090 through [10 CSR 20-11.115/ 10 CSR 26-3.115] for one (1) or more USTs; provided, that the total scope and amounts assured meet the requirements of [10 CSR 20-11.093/ 10 CSR 26-3.093.

(2) An owner or operator may use self-insurance to meet any deductible or co-pay portions of either insurance or risk retention group coverage under [10 CSR 20-11.097] **10 CSR 26-3.097** or Petroleum Storage Tank Insurance Fund under [10 CSR 20-11.101] **10 CSR 26-3.101**; provided, that—

(B) The owner or operator shall have a letter signed by the chief financial officer worded as specified in [10 CSR 20-11.095(4)] **10 CSR 26-3.095(4)**; and

(C) The answer(s) to [10 CSR 20-11 Appendix] Form 1 [(see 10 CSR 20-11.115)], **included herein**, Alternative I, line 8 or Alternative II, lines 9 and 15 is (are): yes—except that a current rating of the most recent bond issue by Standard and Poor's of AAA, AA, A, or BBB or Moody's of Aaa, Aa, A, or Ba may be substituted for the line 15 response.

Wording of Financial Assurance Instruments
Form 1—Letter from Chief Financial Officer

The following text should be used to comply with the requirements of 10 CSR 26-3.095(4) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of [insert name and address of the owner or operator or guarantor]. This letter is in support of the use of [insert “the financial test of self insurance” and/or “guarantee”] to demonstrate financial responsibility for [insert “taking corrective action” and/or “compensating third parties for bodily injury and property damage”] caused by [insert “sudden accidental releases” and/or “nonsudden accidental releases”] in the amount of at least \$[insert dollar amount] per occurrence and \$[insert dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this financial test by this [insert “owner or operator” and/or “guarantor”]: [List for each facility: the name and address of the facility where tanks assured by this financial test are located and whether tanks are assured by this financial test by the tank identification number provided in the notification submitted pursuant to 10 CSR 26-2.022].

A [insert “financial test” and/or “guarantee”] is also used by this [insert “owner or operator” or “guarantor”] to demonstrate financial responsibility in the following amounts under other EPA regulations or state programs authorized by EPA under 40 CFR parts 271 and 145:

Federal Rules

Closure (264.143 and 265.143)	\$
Post-Closure Care (264.145 and 265.145)	\$
Liability Coverage (264.147 and 265.147)	\$
Corrective Action (264.101(b))	\$
Plugging and Abandonment (144.63)	\$
Closure	\$
Post-Closure Care	\$
Liability Coverage	\$
Corrective Action	\$
Plugging and Abandonment	\$
Total	\$

This [insert “owner or operator” or “guarantor”] has not received an adverse opinion, a disclaimer of opinion or a “going concern” qualification from an independent auditor on his/her financial statements for the latest completed fiscal year.

[Fill in the information for Alternative I if the criteria of 10 CSR 26-3.095(2) are being used to demonstrate compliance with the financial test requirements. Fill in the information for Alternative II if the criteria of 10 CSR 26-3.095(3) are being used to demonstrate compliance with the financial test requirements.]

Alternative I

1. Amount of annual UST aggregate coverage being assured by a financial test or guarantee	\$
2. Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test or guarantee	\$
3. Sum of lines one and two	\$
4. Total tangible assets	\$
5. Total liabilities (if any of the amount reported on line three is included in total liabilities, you may deduct that amount from this line and add that amount to line six)	\$
6. Tangible net worth (subtract line five from line four)	\$
[_____ Yes _____ No]	
7. Is line six at least ten (10) million dollars?	_____ Yes _____ No
8. Is line six at least ten (10) times line three?	_____ Yes _____ No
9. Have financial statements for the latest fiscal year been filed with the Securities and Exchange Commission?	_____ Yes _____ No
10. Have financial statements for the latest fiscal year been filed with the Energy Information Administration?	_____ Yes _____ No
11. Have financial statements for the latest fiscal year been filed with the Rural Electrification Administration?	_____ Yes _____ No
12. Has financial information been provided to Dunn and Bradstreet and has Dunn and Bradstreet provided a financial strength rating of 4A or 5A? (Answer “Yes” only if both criteria have been met.)	_____ Yes _____ No

Alternative II

1. Amount of annual UST aggregate coverage being assured by a test or guarantee \$
2. Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test or guarantee \$
3. Sum of lines one and two \$
4. Total tangible assets \$
5. Total liabilities (if any of the amount reported on line three is included in total liabilities, you may deduct that amount from this line and add that amount to line six) \$
6. Tangible net worth (subtract line five from line four) \$
7. Total assets in the United States (required only if less than ninety percent (90%) of assets are located in the United States) \$
/ _____ Yes _____ No/
8. Is line six at least ten (10) million dollars? ☐ Yes ☐ No
9. Is line six at least six (6) times line three? ☐ Yes ☐ No
10. Are at least ninety percent (90%) of assets located in the United States? (If "No" complete line eleven) ☐ Yes ☐ No
11. Is line seven at least six (6) times line three? ☐ Yes ☐ No

(Fill in either lines twelve through fifteen or lines sixteen through eighteen)

12. Current assets \$
13. Current liabilities \$
14. Net working capital (subtract line thirteen from line twelve) \$
/ _____ Yes _____ No/
15. Is line fourteen at least six (6) times line three? ☐ Yes ☐ No
16. Current bond rating of most recent bond issue
17. Name of rating service _____
18. Date of maturity of bond _____
19. Have financial statements for the latest fiscal year been filed with the SEC, the Energy Information Administration or the Rural Electrification Administration? ☐ Yes ☐ No

(If "No," please attach a report from an independent certified public accountant certifying that there are no material differences between the data as reported in lines four through eighteen above and the financial statements for the latest fiscal year.)

(For both Alternative I and Alternative II complete the certification with this statement.)

"I hereby certify that the wording of this letter is identical to the wording specified in 10 CSR 26-3.095(4) as such rules were constituted on the date shown immediately below."

[Signature]

[Name]

[Title]

[Date]

AUTHORITY: section[s] 319.114, RSMo [1994 and 319.129 and 644.026, RSMo Supp. 1996] 2000. This rule originally filed as 10 CSR 20-11.094. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Amended: Filed Jan. 14, 1997, effective Sept. 30, 1997. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.095] **10 CSR 26-3.095 Financial Test of Self-Insurance.** The department is moving the rule and amending sections (1)–(4) and (6).

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) An owner or operator, or guarantor, may satisfy the requirements of [10 CSR 20-11.093] **10 CSR 26-3.093** by passing a financial test as specified in this rule. To pass the financial test of self-insurance, the owner or operator, or guarantor, shall meet the criteria of section (2) or (3) of this rule based on year-end financial statements for the latest completed fiscal year.

(2) The owner or operator, or guarantor, shall have a tangible net worth that meets the following requirements:

(A) The owner or operator, or guarantor, shall have a tangible net worth of at least ten (10) times—

1. The total of the applicable aggregate amount required by [10 CSR 20-11.093] **10 CSR 26-3.093** based on the number of underground storage tanks (USTs) for which a financial test is used to demonstrate financial responsibility to the department;

2. The sum of the corrective action cost estimates, the current closure and post-closure care cost estimates, and amount of liability coverage for which a financial test is used to demonstrate financial

responsibility to Environmental Protection Agency (EPA) in 40 CFR parts 264.101, 264.143, 264.145, 264.147, 265.143, 265.145, and 265.147 or under any state program authorized by EPA under 40 CFR part 271; or

3. The sum of current plugging and abandonment cost estimates for which a financial test is used to demonstrate financial responsibility to EPA under 40 CFR part 144.63 or under any program authorized by EPA under 40 CFR part 145;

(B) The owner or operator, or guarantor, shall have a tangible net worth of at least ten (10) million dollars;

(C) The owner or operator, or guarantor, shall have a letter signed by the chief financial officer worded as specified in section (4) of this rule;

(D) The owner or operator, or guarantor, either must—

1. File financial statements annually with the United States Securities and Exchange Commission (SEC), the Energy Information Administration (EIA), or the Rural Electrification Administration (REA); or

2. Report annually the firm's tangible net worth to Dunn and Bradstreet, and Dunn and Bradstreet shall have assigned the firm a financial strength rating of 4A or 5A; and

(E) The firm's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion, a disclaimer of opinion, or a going concern qualification.

(3) The owner or operator, or guarantor, shall meet the financial test requirements of 40 CFR 264.147(f)(1), modified as follows:

(A) The owner or operator, or guarantor, must meet the financial test requirements of 40 CFR 264.147(f)(1), substituting the appropriate amounts specified in [10 CSR 20-11.093/10 CSR 26-3.093(2)(A) and (B) for the amount of liability coverage each time specified in that section;

(C) The firm's year-end financial statements cannot include an adverse auditor's opinion, a disclaimer of opinion, or a going concern qualification;

(D) The owner or operator, or guarantor, shall have a letter signed by the chief financial officer worded as specified in section (4); and

(E) If the financial statements of the owner or operator, or guarantor, are not submitted annually to the United States SEC, the EIA, or the REA, the owner or operator, or guarantor, shall obtain a special report by an independent certified public accountant stating that—

1. S/he has compared the data that the letter from the chief financial officer specifies as having been derived from the latest year-end financial statements of the owner or operator, or guarantor, with the amounts in those financial statements; and

2. In connection with that comparison, no matters came to his/her attention which caused him/her to believe that the specified data should be adjusted.

(4) To demonstrate that it meets the financial test under section (2) or (3), the chief financial officer of the owner or operator, or guarantor, shall sign within one hundred twenty (120) days of the close of each financial reporting year, as defined by the twelve (12)-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as listed in [10 CSR 20-11 Appendix,] Form 1 (see [10 CSR 20-11.115] **10 CSR 26-3.094**).

(6) The director may require reports of financial condition at any time from the owner or operator, or guarantor. If the director finds, on the basis of these reports or other information, that the owner or operator, or guarantor, no longer meets the financial test requirements of [10 CSR 20-11.095/10 CSR 26-3.095(2) or (3) and (4), the owner or operator shall obtain alternate coverage within thirty (30) days after notification of that finding.

AUTHORITY: section[s] 319.114, RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] 2000. This rule originally filed as 10 CSR 20-11.095. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.096] 10 CSR 26-3.096 Guarantee. The department is moving the rule, amending sections (1)–(4), and adding Form 2 to the rule.

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) An owner or operator may satisfy the requirements of *[10 CSR 20-11.093] 10 CSR 26-3.093* by obtaining a guarantee that conforms to the requirements of this section. The guarantor shall be—

(2) Within one hundred twenty (120) days of the close of each financial reporting year, the guarantor shall demonstrate that it meets the financial test criteria of *[10 CSR 20-11.095] 10 CSR 26-3.095* based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in *[10 CSR 20-11.095/10 CSR 26-3.095]*(4) and shall deliver the letter to the owner or operator. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within one hundred twenty (120) days of the end of that financial reporting year, the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator. If the director notifies the guarantor that s/he no longer meets the requirements of the financial test of *[10 CSR 20-11.095/10 CSR 26-3.095]*(2) or (3) and (4), the guarantor must notify the owner or operator within ten (10) days of receiving that notification from the director. In both cases, the guarantee will ter-

minate no less than one hundred twenty (120) days after the date the owner or operator receives the notification as evidenced by the return receipt. The owner or operator shall obtain alternate coverage as specified in *[10 CSR 20-11.110/10 CSR 26-3.110]*(5).

(3) The guarantee shall be worded as specified in *[10 CSR 20-11 Appendix,] Form 2 [(see [10 CSR 20-11.115], included herein.*

(4) An owner or operator who uses a guarantee to satisfy the requirements of *[10 CSR 20-11.093] 10 CSR 26-3.093* shall establish a standby trust fund when the guarantee is obtained. Under the terms of the guarantee, all amounts paid by the guarantor under the guarantee will be deposited directly into the standby trust fund in accordance with instructions from the director under *[10 CSR 20-11.108] 10 CSR 26-3.108*. This standby trust fund shall meet the requirements specified in *[10 CSR 20-11.103] 10 CSR 26-3.103*.

Form 2—Guarantee

The following text should be used to comply with the requirements of 10 CSR 26-3.096(3) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Guarantee

Guarantee made this [date] by [name of guaranteeing entity], a business entity organized under the laws of the State of [name of state], hereinafter referred to as guarantor, to the Department of Natural Resources and to any and all third parties and obligees on behalf of [owner or operator] of [business address].

Recitals

(A) Guarantor meets or exceeds the financial test criteria of 10 CSR 26-3.095(2) or 10 CSR 26-3.095(3) and 10 CSR 26-3.095(4) and agrees to comply with the requirements for guarantors as specified in 10 CSR 26-3.096(2).

(B) [Owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one (1) instrument is used to assure different tanks at any one (1) facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 10 CSR 26-2.022, and the name and address of the facility.] This guarantee satisfies 10 CSR 26-3.090–10 CSR 26-3.115 requirements for assuring funding for [insert “taking corrective action” and/or “compensating third parties for bodily injury and property damage caused by” either “sudden accidental releases” or “non-sudden accidental releases” or “accidental releases”; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

(C) [Insert appropriate phrase: “On behalf of our subsidiary” (if guarantor is corporate parent of the owner or operator); “On behalf of our affiliate” (if guarantor is a related firm of the owner or operator); or “Incident to our business relationship with” (if guarantor is providing the guarantee as an incident to a substantial business relationship with owner or operator)] [owner or operator], guarantor guarantees to department and to any and all third parties that:

In the event that [owner or operator] fails to provide alternate coverage within sixty (60) days after receipt of a notice of cancellation of this guarantee and the director has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the director, shall fund a standby trust fund in accordance with the provisions of 10 CSR 26-3.112, in an amount not to exceed the coverage limits specified above.

In the event that the director determines that [owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 10 CSR 26-2.075–10 CSR 26-2.082, the guarantor upon written instructions from the director, shall fund a standby trust in accordance with the provisions of 10 CSR 26-3.108 in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by [“sudden” and/or “non-sudden”] accidental releases arising from the operation of the above-identified tank(s) or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor upon written instructions from the director, shall fund a standby trust in accordance with the provisions of 10 CSR 26-3.112 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

(D) Guarantor agrees that if, at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet the financial test criteria of 10 CSR 26-3.095(2) or 10 CSR 26-3.095(3) and 10 CSR 26-3.095(4), guarantor shall send within one hundred twenty (120) days of such failure, by certified mail, notice to [owner or operator]. The guarantee will terminate one hundred twenty (120) days from the date of receipt of the notice by [owner or operator], as evidenced by the return receipt.

(E) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code, naming guarantor as debtor, within ten (10) days after commencement of the proceeding.

(F) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 10 CSR 26-3.090–10 CSR 26-3.115.

(G) Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable financial responsibility requirements of 10 CSR 26-3.090–10 CSR 26-3.115 for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than one hundred twenty (120) days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

(H) The guarantor’s obligation does not apply to any of the following:

1. Any obligation of [insert owner or operator] under Workers’ Compensation, disability benefits, or unemployment compensation law or other similar law;

2. Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

3. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle or watercraft;

4. Property damage to any property owned, rented, loaned to, in the care, custody, or control of or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

5. Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 10 CSR 26-3.093.

(I) Guarantor expressly waives notice of acceptance of this guarantee by the department, by any or all third parties, or by [owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 10 CSR 26-3.096(3) as such rules were constituted on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

AUTHORITY: section[s] 319.114, RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] 2000. This rule originally filed as 10 CSR 20-11.096. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.097] **10 CSR 26-3.097 Insurance and Risk Retention Group Coverage.** The department is moving the rule, amending sections (1) and (2), and adding Forms 3 and 4 to the rule.

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) An owner or operator may satisfy financial responsibility requirements in [10 CSR 20-11.093] **10 CSR 26-3.093** by obtaining liability insurance that conforms to the requirements of this section from a qualified insurer or risk retention group. This insurance may be in the form of a separate insurance policy or an endorsement to an existing insurance policy.

(2) Each insurance policy shall be amended by an endorsement worded as specified in [10 CSR 20-11 Appendix,] Form 3 [(see 10 CSR 20-11.115)], **included herein**, or evidenced by a certificate of insurance worded as specified in [10 CSR 20-11 Appendix,] Form 4 [(see 10 CSR 20-11.115)], **included herein**.

Form 3—Endorsement

The following text should be used to comply with the requirements of 10 CSR 26-3.097(2) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

(A) Endorsement

Name: *[name of each covered location]*

Address: *[address of each covered location]*

Policy Number:

Period of Coverage: *[current policy period]*

Name of *[Insurer or Risk Retention Group]*:

Address of *[Insurer or Risk Retention Group]*:

Name of Insured:

Address of Insured:

Endorsement:

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering the following underground storage tanks:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one (1) instrument is used to assure different tanks at any one (1) facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted for 10 CSR 26-2.022 and the name and address of the facility.]

for *[insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "non-sudden accidental releases" or "accidental release;" in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location]* arising from operating the underground storage tank(s) identified above.

The limits of liability are *[insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location]*, exclusive of legal defense costs which are subject to a separate limit under the policy. This coverage is provided under *[policy number]*. The effective date of said policy is *[date]*.

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions inconsistent with subparagraphs A through E of this paragraph are hereby amended to conform with subparagraphs A through E:

A. Bankruptcy or insolvency of the insured shall not relieve the *["Insurer" or "Group"]* of its obligations under the policy to which this endorsement is attached.

B. The *["Insurer" or "Group"]* is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the *["Insurer" or "Group"]*. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 10 CSR 26-3.095 through 10 CSR 26-3.102.

C. Whenever requested by the director, the *["Insurer" or "Group"]* agrees to furnish to the director a signed duplicate original of the policy and all endorsements.

D. Cancellation or any other termination of the insurance by the *["Insurer" or "Group"]*, except for non-payment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the insured. Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of ten (10) days after a copy of such written notice is received by the insured.

[Insert for claims-made policies]

E. The insurance covers claims otherwise covered by the policy that are reported to the *["Insurer" or "Group"]* within six (6) months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability and exclusions of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in 10 CSR 26-3.097(2)(A) and that the *["Insurer" or "Group"]* is *["licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in this state"]*.

[Signature of authorized representative of Insurer or Risk Retention Group]

[Name of person signing]

[Title of person signing]

Authorized Representative of *[Name of Insurer or Risk Retention Group]*

[Address of Representative]

Form 4—Certificate of Insurance

The following text should be used to comply with the requirements of 10 CSR 26-3.097(2) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Certificate of Insurance

Name: *[name of each covered location]*

Address: *[address of each covered location]*

Policy Number:

Endorsement (if applicable):

Period of Coverage: *[current policy period]*

Name of *[Insurer or Risk Retention Group]*:

Address of *[Insurer or Risk Retention Group]*:

Name of Insured:

Address of Insured:

Certification:

1. *[Name of Insurer or Risk Retention Group]*, *[the “Insurer” or “Group”]*, as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s):

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one (1) instrument is used to assure different tanks at any one (1) facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 10 CSR 26-2.022 and the name and address of the facility.]

for *[insert: “taking corrective action” and/or “compensating third parties for bodily injury and property damage caused by” either “sudden accidental releases” or “non-sudden accidental releases” or “accidental releases;” in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different for different tanks or locations: indicate the type of coverage applicable to each tank or location]* arising from operating the underground storage tank(s) identified above.

The limits of liability are *[insert the dollar amount of the “each occurrence” and “annual aggregate” limits of the Insurer’s or Group’s liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location]*, exclusive of legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under *[policy number]*. The effective date of said policy is *[date]*.

2. The *[“Insurer” or “Group”]* further certifies the following with respect to the insurance described in Paragraph 1:

A. Bankruptcy or insolvency of the insured shall not relieve the *[“Insurer” or “Group”]* of its obligations under the policy to which this certificate applies.

B. The *[“Insurer” or “Group”]* is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the *[“Insurer” or “Group”]*. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 10 CSR 26-3.095 through 10 CSR 26-3.102.

C. Whenever requested by the director, the *[“Insurer” or “Group”]* agrees to furnish to the director a signed duplicate original of the policy and all endorsements.

D. Cancellation or any other termination of the insurance by the *[“Insurer” or “Group”]*, except for nonpayment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the insured. Cancellation for nonpayment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of ten (10) days after a copy of such written notice is received by the insured.

[Insert for claims-made policies]

E. The insurance covers claims otherwise covered by the policy that are reported to the *[“Insurer” or “Group”]* within six (6) months of the effective date of cancellation or nonrenewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable and prior to such policy renewal or termination date. Claims reported during such an extended reporting period are subject to the terms, conditions, limits, including limits of liability and exclusions of the policy.

I hereby certify that the wording of this instrument is identical to the wording in 10 CSR 26-3.097(2)(B) and that the *[“Insurer” or “Group”]* is *[“licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in this state”]*.

[Signature of authorized representative of Insurer]

[Type name]

[Title]

Authorized Representative of *[Name of Insurer or Risk Retention Group]*

[Address of Representative]

AUTHORITY: section[s] 319.114, RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] 2000. This rule originally filed as 10 CSR 20-11.097. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial
Responsibility**

PROPOSED AMENDMENT

[10 CSR 20-11.098] 10 CSR 26-3.098 Surety Bond. The department is moving the rule, amending sections (1), (2), and (4), and adding Form 5 to the rule.

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) An owner or operator may satisfy the financial responsibility requirements of *[10 CSR 20-11.093] 10 CSR 26-3.093* by obtaining a surety bond that conforms to the requirements of this rule. The surety company issuing the bond must be among those listed as acceptable sureties on federal bonds in the latest Circular 570 of the United States Department of the Treasury.

(2) The surety bond shall be worded as specified in *[10 CSR 20-11 Appendix,] Form 5 [(see 10 CSR 20-11.115)], included herein.*

(4) The owner or operator who uses a surety bond to satisfy the requirements of *[10 CSR 20-11.093] 10 CSR 26-3.093* shall establish a standby trust fund when the surety bond is acquired. Under the terms of the bond, all amounts paid by the surety under the bond will be deposited directly into the standby trust fund in accordance with instructions from the director under *[10 CSR 20-11.108] 10 CSR 26-3.108*. This standby trust fund shall meet the requirements specified in *[10 CSR 20-11.103] 10 CSR 26-3.103*.

Form 5—Performance Bond

The following text should be used to comply with the requirements of 10 CSR 26-3.098(2) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Performance Bond

Date bond executed:

Period of coverage:

Principal: *[legal name and business address of owner or operator]*

Type of organization: *[insert "individual," "joint venture," "partnership," or "corporation"]*

State of incorporation (if applicable):

Surety(ies): *[name(s) and business address(es)]*

Scope of Coverage: *[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one (1) instrument is used to assure different tanks at any one (1) facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 10 CSR 26-2.022 and the name and address of the facility. List the coverage guaranteed by the bond: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "non-sudden accidental releases" or "accidental releases" "arising from operating the underground storage tank"]*.

Penal sums of bond	:
Per occurrence	\$
Annual aggregate	\$
Surety's bond number	:

Know All Persons by These Presents, that we, the Principal and Surety(ies), hereto are firmly bound to the department, in the above penal sums for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-Sureties, we, the Sureties, bind ourselves in such sums jointly and severally only for the purpose of allowing a joint action(s) against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sums only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sums.

Whereas said Principal is required under Subtitle I of the Resource Conservation and Recovery Act (RCRA), as amended, to provide financial assurance for *[insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "non-sudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location]* arising from operating the underground storage tanks identified above, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, therefore, the conditions of the obligation are such that if the Principal shall faithfully *["take corrective action, in accordance with 10 CSR 26-2.075–10 CSR 26-2.082 and the director's instructions for," and/or "compensate injured third parties for bodily injury and property damage caused by" either "sudden" or "non-sudden" or "sudden and non-sudden"]* accidental releases arising from operating the tank(s) identified above, or if the Principal shall provide alternate financial assurance, as specified in 10 CSR 26-3.090–10 CSR 26-3.115, within one hundred twenty (120) days after the date the notice of cancellation is received by the Principal from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

Such obligation does not apply to any of the following:

(A) Any obligation of *[insert owner or operator]* under Workers' Compensation, disability benefits or unemployment compensation law or other similar law;

(B) Bodily injury to an employee of *[insert owner or operator]* arising from, and in the course of, employment by *[insert owner or operator]*;

(C) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle or watercraft;

(D) Property damage to any property owned, rented, loaned to, in the care, custody, or control of or occupied by *[insert owner or operator]* that is not the direct result of a release from a petroleum underground storage tank;

(E) Bodily injury or property damage for which *[insert owner or operator]* is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 10 CSR 26-3.093.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by *[the director]* that the Principal has failed to *["take corrective action, in accordance with 10 CSR 26-2.075–10 CSR 26-2.082 and the director's instructions," and/or "compensate injured third parties"]* as guaranteed by this bond, the Surety(ies) shall either perform *["corrective action in accordance with 10 CSR 26-2.075–10 CSR 26-2.082 and the director's instructions," and/or "third-party liability compensation"]* or place funds in an amount up to the annual aggregate penal sum into the standby trust fund as directed by the director under 10 CSR 26-3.108.

Upon notification by *[the director]* that the Principal has failed to provide alternate financial assurance within sixty (60) days after the date the notice of cancellation is received by the Principal from the Surety(ies) and that the director has determined or suspects that a release has occurred, the Surety(ies) shall place funds in an amount not exceeding the annual aggregate penal sum into the standby trust fund as directed by the director under 10 CSR 26-3.108.

The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statutes and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment(s) shall amount in the annual aggregate to the penal sum shown on the face of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal, provided, however, that cancellation shall not occur during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by the Principal as evidenced by the return receipt.

The Principal may terminate this bond by sending written notice to the Surety(ies).

In Witness Whereof, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in 10 CSR 26-3.098(2) as such rules were constituted on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate seal]

CORPORATE SURETY(IES)

[Name and address]

State of Incorporation:

Liability limit: \$

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal and other information in the same manner as for Surety above.]

Bond premium: \$

AUTHORITY: section[s] 319.114, RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] 2000. This rule originally filed as 10 CSR 20-11.098. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Moved and amended: Filed Feb. 13, 2009.

This standby trust fund must meet the requirements specified in [10 CSR 20-11.103/ 10 CSR 26-3.103.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial
Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.099] **10 CSR 26-3.099 Letter of Credit.** The department is moving the rule, amending sections (1)–(3), and adding Form 6 to the rule.

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) An owner or operator may satisfy the financial responsibility requirements of [10 CSR 20-11.093/ **10 CSR 26-3.093** by obtaining an irrevocable standby letter of credit that conforms to the requirements of this section. The issuing institution must be an entity that has the authority to issue letters of credit in each state where used and whose letter of credit operations are regulated and examined by a federal or state agency.

(2) The letter of credit must be worded as specified in [10 CSR 20-11 Appendix,] Form 6 [(see 10 CSR 20-11.115)], **included herein.**

(3) An owner or operator who uses a letter of credit to satisfy the requirements of [10 CSR 20-11.093/ **10 CSR 26-3.093** shall also establish a standby trust fund when the letter of credit is acquired. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the director will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the director under [10 CSR 20-11.108/ **10 CSR 26-3.108.**

Form 6—Irrevocable Standby Letter of Credit

The following text should be used to comply with the requirements of 10 CSR 26-3.090(2) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Irrevocable Standby Letter of Credit

[Name and address of issuing institution]

[Name and address of director]

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. in your favor, at the request and for the account of [owner or operator name] of [address] up to the aggregate amount of [in words] United States dollars (\$[insert dollar amount]), available upon presentation [insert, if more than one (1) state is a beneficiary, "by any one (1) of you"] of:

(A) Your sight draft, bearing reference to this letter of credit, No. , and

(B) Your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of Subtitle I of the Resource Conservation and Recovery Act of 1976, as amended."

This letter of credit may be drawn on to cover [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the underground storage tank(s) identified below in the amount of [in words] \$[insert dollar amount] per occurrence and [in words] \$[insert dollar amount] annual aggregate:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one (1) instrument is used to assure different tanks at any one (1) facility, for each tank covered by this instrument, list the tank identification number provided by in the notification submitted pursuant to 10 CSR 26-2.022 and the name and address of the facility.]

The letter of credit may not be drawn on to cover any of the following:

1. Any obligation of [insert owner or operator] under a Workers' Compensation, disability benefits or unemployment compensation law or other similar law;

2. Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

3. Bodily injury or property damage arising from the ownership, maintenance, use or entrustment to others of any aircraft, motor vehicle or watercraft;

4. Property damage to any property owned, rented, loaned to, in the care, custody, or control of or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

5. Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 10 CSR 26-3.093.

This letter of credit is effective as of [date] and shall expire on [date], but such expiration date shall be automatically extended for a period of [at least the length of the original term] on [expiration date] and on each successive expiration date unless, at least one hundred twenty (120) days before the current expiration date, we notify [owner or operator] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event that [owner or operator] is so notified, any unused portion of the credit shall be available upon presentation of your sight draft for one hundred twenty (120) days after the date of receipt by [owner or operator], as shown on the signed return receipt.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us and we shall deposit the amount of the draft directly into the standby trust fund of [owner or operator], in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in 10 CSR 26-3.099(2) as such rules were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution]

[Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or the "Uniform Commercial Code"].

AUTHORITY: section[s] 319.114, RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] 2000. This rule originally filed as 10 CSR 20-11.099. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.101] **10 CSR 26-3.101 Petroleum Storage Tank Insurance Fund.** The department is moving the rule and amending section (1).

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) An owner or operator may satisfy part of the financial responsibility requirements of [10 CSR 20-11.093] **10 CSR 26-3.093** for underground storage tanks (USTs) located in this state from the Petroleum Storage Tank Insurance Fund. In addition, any other combination of mechanisms may be used to supplement coverage provided by the Petroleum Storage Tank Insurance Fund so that the sum of the mechanisms provides the required amount of assurance.

AUTHORITY: section[s] 319.114 [and 644.026], RSMo [(1994)] 2000 and section 319.129, RSMo [(Cum. Supp. 1996)] Supp. 2008. This rule originally filed as 10 CSR 20-11.101. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Amended: Filed Jan. 14, 1997, effective Sept. 30, 1997. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.102] **10 CSR 26-3.102 Trust Fund.** The department is moving the rule and amending section (1).

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) An owner or operator may satisfy the financial responsibility requirements of [10 CSR 20-11.093] **10 CSR 26-3.093** by establishing a trust fund that conforms to the requirements of this rule. The trustee shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of the state in which the fund is established.

(A) The wording of the trust agreement shall be identical to the wording for a standby trust fund in [10 CSR 20-11.103(2)] **10 CSR 26-3.103(2)** and shall be accompanied by a formal certification of acknowledgment for a standby trust fund in [10 CSR 20-11.103(3)] **10 CSR 26-3.103(3)**.

(D) If other financial assurance as specified in [10 CSR 20-11.090–10 CSR 20-11.115] **10 CSR 26-3.090–10 CSR 26-3.115** is substituted for all or part of the trust fund, the owner or operator may submit a written request to the director for release of the excess.

AUTHORITY: section[s] 319.114, RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] 2000. This rule originally filed as 10 CSR 20-11.102. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial
Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.103] 10 CSR 26-3.103 Standby Trust Fund. The department is moving the rule, amending sections (1)–(3), and adding Forms 7 and 8 to the rule.

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) An owner or operator using any one (1) of the mechanisms authorized by *[10 CSR 20-11.096] 10 CSR 26-3.096*, *[10 CSR 20-11.098] 10 CSR 26-3.098*, or *[10 CSR 20-11.099] 10 CSR 26-3.099* shall establish a standby trust fund when the mechanism is acquired. The trustee of the standby trust fund shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of this state.

(2) The standby trust agreement must be worded as specified in *[10 CSR 20-11 Appendix,] Form 7 [(see 10 CSR 20-11.115)], included herein.*

(3) The standby trust agreement must be accompanied by a formal certification of acknowledgment as specified in *[10 CSR 20-11 Appendix,] Form 8 [(see 10 CSR 20-11.115)], included herein.*

Form 7—Trust Agreement

The following text should be used to comply with the requirements of 10 CSR 26-3.102(6) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Trust Agreement

Trust agreement, the "Agreement" entered into as of [date] by and between [name of the owner or operator], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "Incorporated in the state of" or "a national bank"], the "Trustee."

Whereas, the Department of Natural Resources, "the department," an agency of the state of Missouri, has established certain regulations applicable to the Grantor, requiring that an owner or operator of an underground storage tank shall provide assurance that funds will be available when needed for corrective action and third-party compensation for bodily injury and property damage caused by sudden and non-sudden accidental releases arising from the operation of the underground storage tank;

Whereas, the Grantor has elected to establish [insert either "a guarantee," "surety bond," or "letter of credit"] to provide all or part of such financial assurance for the underground storage tanks identified herein and is required to establish a standby trust fund able to accept payments from the instrument (This paragraph is only applicable to the standby trust agreement.);

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee;

Now, therefore, the Grantor and the Trustee agree as follows:

1. Definitions

As used in this Agreement:

- A. The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.
- B. The term "Trustee" means the Trustee who enters into the Agreement and any successor Trustee.

2. Identification of the Financial Assurance Mechanism.

This Agreement pertains to the [identify the financial assurance mechanism, either a guarantee, surety bond, or letter of credit, from which the standby trust fund is established to receive payments (This paragraph is only applicable to the standby trust agreement)].

3. Establishment of Fund.

The Grantor and the Trustee hereby establish a trust fund, the "Fund" for the benefit of department. The Grantor and the Trustee intend that no third-party have access to the Fund except as herein provided. (The Fund is established initially as a standby to receive payments and shall not consist of any property.) Payments made by the provider of financial assurance pursuant to the director's instructions are transferred to the Trustee and are referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor as provider of financial assurance, any payments necessary to discharge any liability of the Grantor established by the department.

4. Payment for ["Corrective Action" and/or "Third-Party Liability Claims"].

The Trustee shall make payments from the Fund as [the director] shall direct, in writing, to provide for the payment of the costs of [insert "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the tanks covered by the financial assurance mechanism identified in this Agreement.

The Fund may not be drawn upon to cover any of the following:

A. Any obligation of [insert owner or operator] under Workers' Compensation, disability benefits, or unemployment compensation law or similar law;

B. Bodily injury to an employee of [insert owner or operator] arising from, and in the course of employment by [insert owner or operator];

C. Bodily injury or property damage arising from the ownership, maintenance, use or entrustment to others of any aircraft, motor vehicle, or watercraft;

D. Property damage to any property owned, rented, loaned to, in the care, custody, or control of or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

E. Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 40 CFR 280.93.

The Trustee shall reimburse the Grantor, or other persons as specified by the director, from the Fund for corrective expenditures and/or third-party liability claims in such amounts as the director shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the director specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

5. Payments Comprising the Fund.

Payments made to the Trustee for the Fund shall consist of cash and securities acceptable to the Trustee.

6. Trustee Management.

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time-to-time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his/her duties with respect to the trust fund solely in the interest of the beneficiaries and with care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims, except that:

A. Securities or other obligations of the Grantor, or any other owner or operator of the tanks, or any of their affiliates as defined in the Investment Company Act of 1940, 15 U.S.C. 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

B. The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

C. The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

7. Commingling and investment.

The Trustee is expressly authorized in its discretion:

A. To transfer from time-to-time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

B. To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1, including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

8. Express Powers of Trustee.

Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

A. To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

B. To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

C. To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

D. To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

E. To compromise or otherwise adjust all claims in favor of or against the Fund.

9. Taxes and Expenses.

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

10. Advice of Counsel.

The Trustee may from time-to-time consult with counsel, who may be counsel to the Grantor with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of legal counsel.

11. Trustee Compensation.

The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time-to-time with the Grantor.

12. Successor Trustee.

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in writing sent to the Grantor and the present Trustee by certified mail ten (10) days before such change becomes effective. Any expense incurred by the Trustee as a result of any of the acts contemplated by this section shall be paid as provided in paragraph 9 of this agreement.

13. Instructions to the Trustee.

All orders, requests and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Schedule B or such other designees as the Grantor may designate by amendment to Schedule B. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests and instructions by the director to the Trustee shall be in writing, signed by the director, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the director hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the director, except as provided for herein.

14. Amendment of Agreement.

This Agreement may be amended by an instrument in writing executed by the Grantor and the Trustee, or by the Trustee and [the director] if the Grantor ceases to exist.

15. Irrevocability and Termination.

Subject to the right of the parties to amend this Agreement as provided in Section 14, this Trust shall be irrevocable and shall continue until

terminated at the written direction of the Grantor and the Trustee, or by the Trustee and the director, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

16. Immunity and Indemnification.

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the director issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

17. Choice of Law.

This Agreement shall be administered, construed, and enforced according to the laws of the state of *[insert name of state]*, or the Comptroller of the Currency in the case of National Association banks.

18. Interpretation.

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each paragraph of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals (if applicable) to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in 10 CSR 26-3.103(2) as such rules were constituted on the date written above.

[Signature of Grantor]

[Name of the Grantor]

[Title]

Attest:

[Signature of Trustee]

[Name of the Trustee]

[Title]

[Seal]

[Signature of Witness]

[Name of the Witness]

[Title]

[Seal]

Form 8—Certification of Acknowledgments

The following text should be used to comply with the requirements of 10 CSR 26-3.103(3) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Certification of Acknowledgments

State of

County of

On this *[date]*, before me personally came *[owner or operator]* to me known, who, being by me duly sworn, did depose and say that s/he resides at *[address]*, that s/he is *[title]* of *[corporation]*, the corporation described in and which executed the above instrument; that s/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that s/he signed her/his name thereto by like order.

[Signature of Notary Public]

[Name of Notary Public]

AUTHORITY: section[s] 319.114, RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] 2000. This rule originally filed as 10 CSR 20-11.103. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.104] **10 CSR 26-3.104 Substitution of Financial Assurance Mechanisms by Owner or Operator.** The department is moving the rule and amending sections (1) and (2).

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) An owner or operator may substitute any alternate financial assurance mechanisms as specified in [10 CSR 20-11.090–10 CSR 20-11.115] **10 CSR 26-3.090–10 CSR 26-3.115**, provided that at all times s/he maintains an effective financial assurance mechanism or combination of mechanisms that satisfies the requirements of [10 CSR 20-11.093] **10 CSR 26-3.093**.

(2) After obtaining alternate financial assurance as specified in [10 CSR 20-11.090–10 CSR 20-11.115] **10 CSR 26-3.090–10 CSR 26-3.115**, an owner or operator may cancel a financial assurance mechanism by providing notice to the provider of financial assurance.

AUTHORITY: section[s] 319.114, RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] 2000. This rule originally filed as 10 CSR 20-11.104. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.105] **10 CSR 26-3.105 Cancellation or Nonrenewal by a Provider of Financial Assurance.** The department is moving the rule and amending sections (1) and (2).

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination by certified mail to the owner or operator. Notice of termination shall comply with the following requirements:

(A) Termination of a guarantee, a surety bond, or a letter of credit shall not occur until one hundred twenty (120) days after the date on which the owner or operator receives the notice of termination as evidenced by the return receipt; and

(2) If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in [10 CSR 20-11.110] **10 CSR 26-3.110**, the owner or operator shall obtain alternate coverage as specified in this section within sixty (60) days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within sixty (60) days after receipt of the notice of termination, the owner or operator shall notify the director of the failure and submit—

(C) The evidence of the financial assurance mechanism subject to the termination maintained in accordance with [10 CSR 20-11.107(2)] **10 CSR 26-3.107(2)**.

AUTHORITY: section[s] 319.114, RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] 2000. This rule originally filed as 10 CSR 20-11.105. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial
Responsibility**

PROPOSED AMENDMENT

[10 CSR 20-11.106] 10 CSR 26-3.106 Reporting by Owner or Operator. The department is moving the rule and amending sections (1)–(3).

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) An owner or operator shall submit the appropriate forms listed in [10 CSR 20-11.107(2)] 10 CSR 26-3.107(2) documenting current evidence of financial responsibility to the director—

(A) Within thirty (30) days after the owner or operator identifies a release from an underground storage tank (UST) required to be reported under [10 CSR 20-10.053] 10 CSR 26-2.050, 10 CSR 26-2.053, or [10 CSR 20-10.061] 10 CSR 26-2.071;

(B) If the owner or operator fails to obtain alternate coverage as required by [10 CSR 20-11.090–10 CSR 20-11.115] 10 CSR 26-3.090–10 CSR 26-3.115 within thirty (30) days after the owner or operator receives notice of—

1. Commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), *United States Code*, naming a provider of financial assurance as a debtor;

2. Suspension or revocation of the authority of a provider of financial assurance to issue a financial assurance mechanism;

3. Failure of a guarantor to meet the requirements of the financial test;

4. Other incapacity of a provider of financial assurance; or

(C) As required by [10 CSR 20-11.095(7)] 10 CSR 26-3.095(7) and [10 CSR 20-11.105(2)] 10 CSR 26-3.105(2).

(2) An owner or operator shall certify compliance with the financial responsibility requirements of [10 CSR 20-11.090–10 CSR 20-11.115] 10 CSR 26-3.090–10 CSR 26-3.115 as specified in the new

tank notification form (see [10 CSR 20-10.022] 10 CSR 26-2.022) when notifying the department of the installation of a new UST under [10 CSR 20-10.022] 10 CSR 26-2.022.

(3) The director may require an owner or operator to submit evidence of financial assurance as described in [10 CSR 20-11.107(2)] 10 CSR 26-3.107(2) or other information relevant to compliance with [10 CSR 20-11.090–10 CSR 20-11.115] 10 CSR 26-3.090–10 CSR 26-3.115 at any time.

AUTHORITY: section[s] 319.114, RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] 2000. This rule originally filed as 10 CSR 20-11.106. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial
Responsibility**

PROPOSED AMENDMENT

[10 CSR 20-11.107] 10 CSR 26-3.107 Record [k]Keeping. The department is moving the rule, amending sections (1) and (2), and adding Form 9 to the rule.

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) Owners or operators shall maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility under [10 CSR 20-11.090] 10 CSR 26-3.090 through [10 CSR 20-11.115] 10 CSR 26-3.115 for an underground storage tank (UST) until released from the requirements of [10 CSR 20-11.090] 10 CSR 26-3.090 through [10 CSR 20-11.115] 10 CSR 26-3.115 under [10 CSR 20-11.109] 10 CSR 26-3.109. An owner or operator shall maintain this evidence at the UST site or the

owner's or operator's place of business. Records maintained off-site shall be made available upon request of the department.

(2) An owner or operator shall maintain the following types of evidence of financial responsibility:

(A) An owner or operator using an assurance mechanism specified in *[10 CSR 20-11.095]* **10 CSR 26-3.095** through *[10 CSR 20-11.100]* **10 CSR 26-3.100** or *[10 CSR 20-11.102]* **10 CSR 26-3.102** or *[10 CSR 20-11.112]* **10 CSR 26-3.112** through *[10 CSR 20-11.115]* **10 CSR 26-3.115** shall maintain a copy of the instrument worded as specified;

(D) A local government owner or operator using a local government guarantee under *[10 CSR 20-11.114(4)]* **10 CSR 26-3.114(4)** shall maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement;

(E) A local government owner or operator using the local government bond rating test under *[10 CSR 20-11.112]* **10 CSR 26-3.112** shall maintain a copy of its bond rating published within the last twelve (12) months by Moody's or Standard & Poor's;

(F) A local government owner or operator using the local government guarantee under *[10 CSR 20-11.114]* **10 CSR 26-3.114**, where the guarantor's demonstration of financial responsibility relies on the bond rating test under *[10 CSR 20-11.112]* **10 CSR 26-3.112**, shall maintain a copy of the guarantor's bond rating published within the last twelve (12) months by Moody's or Standard & Poor's;

(H) An owner or operator covered by the Petroleum Storage Tank Insurance Fund must maintain on file a copy of any evidence of coverage supplied by or required by the department under *[10 CSR 20-11.101(1)]* **10 CSR 26-3.101(1)**;

(I) An owner or operator using a local government fund under *[10 CSR 20-11.115]* **10 CSR 26-3.115** shall maintain the following documents:

1. A copy of the state constitutional provision or local government's statute, charter, ordinance, or order dedicating the fund;

2. Year-end financial statements for the most recent completed financial reporting year showing the amount in the fund. If the fund is established under *[10 CSR 20-11.115(1)(C)]* **10 CSR 26-3.115(1)(C)** using incremental funding backed by bonding authority, the financial statements must show the previous year's balance, the amount of funding during the year, and the closing balance in the fund; and

3. If the fund is established under *[10 CSR 20-11.115(1)(C)]* **10 CSR 26-3.115(1)(C)** using incremental funding backed by bonding authority, the owner or operator shall also maintain documentation of the required bonding authority, including either the results of a voter referendum (under *[10 CSR 20-11.115(1)(C)1.]* **10 CSR 26-3.115(1)(C)1.**) or attestation by the state attorney general as specified under *[10 CSR 20-11.115(1)(C)2.]* **10 CSR 26-3.115(1)(C)2.**;

(K) An owner or operator using an assurance mechanism specified in *[10 CSR 20-11.095]* **10 CSR 26-3.095** through *[10 CSR 20-11.102]* **10 CSR 26-3.102** or *[10 CSR 20-11.112]* **10 CSR 26-3.112** through *[10 CSR 20-11.115]* **10 CSR 26-3.115** shall maintain an updated copy of a certification of financial responsibility worded as specified in *[10 CSR 20-11 Appendix,]* Form 9 *[(see 10 CSR 20-11.115)],* **included herein**. The owner or operator shall update this certification whenever the financial assurance mechanism(s) used to demonstrate financial responsibility change(s).

**Form 9—Certification of Financial
Responsibility**

The following text should be used to comply with the requirements of 10 CSR 26-3.107(2)(K) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Certification of Financial Responsibility

[Owner or operator] hereby certifies that it is in compliance with the requirements of 10 CSR 26-3.090–10 CSR 26-3.115.

The financial assurance mechanism(s) used to demonstrate financial responsibility under 10 CSR 26-3.090–10 CSR 26-3.115 is (are) as follows:

[For each mechanism, list the type of mechanism, name of issuer, mechanism number (if applicable), amount of coverage, effective period of coverage, and whether the mechanism covers “taking corrective action” and/or “compensating third parties for bodily injury and property damage caused by” either “sudden accidental releases” or “non-sudden accidental releases” or “accidental releases.”]

[Signature of owner or operator]

[Name of owner or operator]

[Title]

[Date]

[Signature of witness or notary]

[Name of witness or notary]

[Date]

AUTHORITY: *section[s] 319.114, RSMo [(1994)] 2000 and section 319.129, [and 644.026,] RSMo [(Cum. Supp. 1996)] Supp. 2008. This rule originally filed as 10 CSR 20-11.107. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Amended: Filed Jan. 14, 1997, effective Sept. 30, 1997. Moved and amended: Filed Feb. 13, 2009.*

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.108] 10 CSR 26-3.108 Drawing on Financial Assurance Mechanisms. The department is moving the rule, amending sections (1), (2), and (4), and adding Form 10 to the rule.

PURPOSE: *This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.*

(1) Except as specified in section (4) of this rule, the director shall require the guarantor, surety, or institution issuing a letter of credit to place the amount of funds stipulated by the director, up to the limit of funds provided by the financial assurance mechanism, into the standby trust if—

(A) The following conditions exist:

1. The owner or operator fails to establish alternate financial assurance within sixty (60) days after receiving notice of cancellation of the guarantee, surety bond, letter of credit, or, as applicable, other financial assurance mechanism; and

2. The director determines or suspects that a release from an underground storage tank (UST) covered by the mechanism has occurred and so notifies the owner or operator, or the owner or operator has notified the director pursuant to [10 CSR 20-10.050–10 CSR 20-10.067] **10 CSR 26-2.050, 10 CSR 26-2.053, or 10 CSR 26-2.071** of a release from a UST covered by the mechanism; or

(2) The director may draw on a standby trust fund when—

(A) The director makes a final determination that a release has occurred and immediate or long-term corrective action for the release is needed and the owner or operator, after appropriate notice and opportunity to comply, has not conducted corrective action as required in [10 CSR 20-10.060–10 CSR 20-10.067] **10 CSR 26-2.075–10 CSR 26-2.082**; or

(B) The director has received either—

1. Certification from the owner or operator and the third-party liability claimant(s), and from attorneys representing the owner or operator and the third-party liability claimant(s), that a third-party liability claim should be paid. The certification shall be worded as specified in [10 CSR 20-11 Appendix,] Form 10 [(see 10 CSR 20-11.115)], **included herein**; or

2. A valid final court order establishing a judgment against the owner or operator for bodily injury or property damage caused by an accidental release from a UST covered by financial assurance under [10 CSR 20-11.095–10 CSR 20-11.115] **10 CSR 26-3.095–10 CSR 26-3.115** and the director determines that the owner or operator has not satisfied the judgment.

(4) A governmental entity acting as guarantor under [10 CSR 20-11.114(7)] **10 CSR 26-3.114(7)**, the local government guarantee without standby trust, shall make payments as directed by the director under the circumstances described in [10 CSR 20-11.108(1)–(3)] **10 CSR 26-3.108(1)–(3)**.

Form 10—Certification of Valid Claim

The certification of valid claim must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Certification of Valid Claim

The undersigned, as principals and as legal representatives of [*insert owner or operator*] and [*insert name and address of third-party claimant*], hereby certify that the claim of bodily injury (and/or) property damage caused by an accidental release arising from operating [*owner's or operator's*] underground storage tank should be paid in the amount of \$[].

[*Signatures*]

[*Owner or Operator*]

[*Attorney for Owner or Operator*]

[*Notary*]

[*Date*]

[*Signatures*]

[*Claimant(s)*]

[*Attorney(s) for claimants(s)*]

[*Notary*]

[*Date*]

AUTHORITY: section[s] 319.114, RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] 2000. This rule originally filed as 10 CSR 20-11.108. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.109] **10 CSR 26-3.109 Release From the Requirements.** The department is moving the rule and amending section (1).

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) An owner or operator is no longer required to maintain financial responsibility under [10 CSR 20-11.090–10 CSR 20-11.115] **10 CSR 26-3.090–10 CSR 26-3.115** for an underground storage tank (UST) after the tank has been properly closed, or if corrective action is required, after corrective action has been completed and the tank has been properly closed as required by [10 CSR 20-10.070–10 CSR 20-10.074] **10 CSR 26-2.060–10 CSR 26-2.064**.

AUTHORITY: section[s] 319.114, RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] 2000. This rule originally filed as 10 CSR 20-11.109. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.110] **10 CSR 26-3.110 Bankruptcy or Other Incapacity of Owner or Operator, or Provider of Financial Assurance.** The department is moving the rule and amending sections (1)–(5).

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) Within ten (10) days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), *United States Code*, naming an owner or operator as debtor, the owner or operator shall notify the director by certified mail of the commencement and submit the appropriate forms listed in [10 CSR 20-11.107(2)] **10 CSR 26-3.107(2)** documenting current financial responsibility.

(2) Within ten (10) days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), *United States Code*, naming a guarantor providing financial assurance as debtor, this guarantor shall notify the owner or operator by certified mail of the commencement as required under the terms of the guarantee specified in [10 CSR 20-11.096] **10 CSR 26-3.096**.

(3) Within ten (10) days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), *United States Code*, naming a local government owner or operator as debtor, the local government owner or operator shall notify the director by certified mail of the commencement and submit the appropriate forms listed in [10 CSR 20-11.107(2)] **10 CSR 26-3.107(2)** documenting current financial responsibility.

(4) Within ten (10) days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), *United States Code*, naming a guarantor providing a local government financial assurance as debtor, this guarantor shall notify the local government owner or operator by certified mail of the commencement as required under the terms of the guarantee specified in [10 CSR 20-11.106] **10 CSR 26-3.106**.

(5) An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit. The owner or operator shall obtain alternate financial assurance as specified in [10 CSR 20-11.090] **10 CSR 26-3.090** through [10 CSR 20-11.115] **10 CSR 26-3.115** within thirty (30) days after receiving notice of the event. If the owner or operator does not obtain alternate coverage within thirty (30) days after notification, s/he shall notify the director.

AUTHORITY: section[s] 319.114, RSMo [(1994) and and 644.026, RSMo (Cum. Supp. 1996)] **2000** and section 319.129, RSMo Supp. **2008**. This rule originally filed as 10 CSR 20-11.110. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Amended: Filed Jan. 14, 1997, effective Sept. 30, 1997. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.111] **10 CSR 26-3.111 Replenishment of Guarantees, Letters of Credit or Surety Bonds.** The department is moving the rule and amending section (2).

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(2) For purposes of this rule, the full amount of coverage required is the amount of coverage to be provided by [10 CSR 20-11.093] **10 CSR 26-3.093**. If a combination of mechanisms was used to provide

the assurance funds which were drawn upon, replenishment shall occur by the earliest anniversary date among the mechanisms.

AUTHORITY: section[s] 319.114, RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] **2000**. This rule originally filed as 10 CSR 20-11.111. Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.112] **10 CSR 26-3.112 Local Government Bond Rating Test.** The department is moving the rule, amending sections (1), (2), and (4)–(6), and adding Forms 11 and 12 to the rule.

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) A general purpose local government owner or operator, local government, or both, serving as a guarantor may satisfy the requirements of [10 CSR 20-11.093] **10 CSR 26-3.093** by having a currently outstanding issue(s) of general obligation bonds of one (1) million dollars or more, excluding refunded obligations, with a Moody's rating of Aaa, Aa, A, or Baa, or a Standard & Poor's rating of AAA, AA, A, or BBB. Where a local government has multiple outstanding issues, or where a local government's bonds are rated by both Moody's and Standard and Poor's, the lowest rating shall be used to determine eligibility. Bonds that are backed by credit enhancement other than municipal bond insurance may not be considered in determining the amount of applicable bonds outstanding.

(2) A local government owner or operator or local government serving as a guarantor that 1) is not a general purpose local government and 2) does not have the legal authority to issue general obligation

bonds may satisfy the requirements of *[10 CSR 20-11.093]* **10 CSR 26-3.093** by—

(4) To demonstrate that it meets the local government bond rating test, the chief financial officer of a general purpose local government owner or operator, guarantor, or both, shall sign a letter worded as specified in *[10 CSR 20-11 Appendix,]* Form 11 *[(see 10 CSR 20-11.115)],* **included herein.**

(5) To demonstrate that it meets the local government bond rating test, the chief financial officer of local government owner or operator, guarantor, or both, other than a general purpose government shall sign a letter worded as specified in *[10 CSR 20-11 Appendix,]* Form 12 *[(see 10 CSR 20-11.115)],* **included herein.**

(6) The director may require reports of financial condition at any time from the local government owner or operator, local government guarantor, or both. If the director finds, on the basis of the reports or other information, that the local government owner or operator, guarantor, or both, no longer meets the local government bond rating test requirements of *[10 CSR 20-11.112]* **10 CSR 26-3.112**, the local government owner or operator shall obtain alternative coverage within thirty (30) days after notification of the finding.

Wording of Financial Assurance Instruments
Form 11—General Purpose Local Government Bond Rating Test

The following text should be used to comply with the requirements of 10 CSR 26-3.112(4) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of *[insert: name and address of local government owner or operator, or guarantor]*. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for *[insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"]* caused by *[insert: "sudden accidental releases" and/or "nonsudden accidental releases"]* in the amount of at least *[insert: dollar amount]* per occurrence and *[insert: dollar amount]* annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this bond rating test: *[List for each facility: the name and address of the facility where tanks are assured by the bond rating test]*.

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding bond issues that are being used by *[name of local government owner or operator, or guarantor]* to demonstrate financial responsibility are as follows: *[complete table]*

Issue Date

Maturity Date

Outstanding Amount

Bond Rating

Rating Agency *[Moody's or Standard & Poor's]*

The total outstanding obligation of *[insert amount]*, excluding refunded bond issues, exceeds the minimum amount of one (1) million dollars. All outstanding general obligation bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last twelve (12) months. Neither rating service has provided notification within the last twelve (12) months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in 10 CSR 26-3.112(4) as the regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

Form 12—Local Government Bond Rating Test

The following text should be used to comply with the requirements of 10 CSR 26-3.112(5) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of *[insert: name and address of local government owner or operator, or guarantor]*. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for *[insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"]* caused by *[insert: "sudden accidental releases" and/or "nonsudden accidental releases"]* in the amount of at least *[insert: dollar amount]* per occurrence and *[insert: dollar amount]* annual aggregate arising from operating (an) underground storage tank(s). This local government is not organized to provide general governmental services and does not have the legal authority under state law or constitutional provisions to issue general obligation debt.

Underground storage tanks at the following facilities are assured by this bond rating test: *[List for each facility: the name and address of the facility where tanks are assured by the bond rating test]*.

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding revenue bond issues that are being used by *[name of local government owner or operator, or guarantor]* to demonstrate financial responsibility are as follows: *[complete table]*

Issue Date

Maturity Date

Outstanding Amount

Bond Rating

Rating Agency *[Moody's or Standard & Poor's]*

The total outstanding obligation of *[insert amount]*, excluding refunded bond issues, exceeds the minimum amount of one (1) million dollars. All outstanding revenue bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last twelve (12) months. The revenue bonds listed are not backed by third-party credit enhancement or are insured by a municipal bond insurance company. Neither rating service has provided notification within the last twelve (12) months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in 10 CSR 26-3.112(5) as the regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

AUTHORITY: section[s] 319.114, RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] 2000. This rule originally filed as 10 CSR 20-11.112. Original rule filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial
Responsibility**

PROPOSED AMENDMENT

[10 CSR 20-11.113] 10 CSR 26-3.113 Local Government Financial Test. The department is moving the rule, amending sections (1), (3), and (5), and adding Form 13 to the rule.

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) A local government owner or operator may satisfy the requirements of [10 CSR 20-11.093] **10 CSR 26-3.093** by passing the financial test specified in this rule. To be eligible to use the financial test, the local government owner or operator shall have the ability and authority to assess and levy taxes or to freely establish fees and charges.

(3) To demonstrate that it meets the financial test under section (2) of this rule, the chief financial officer of the local government owner or operator[,] shall sign, within one hundred twenty (120) days of the close of each financial reporting year, as defined by the twelve (12)-month period for which financial statements used to support the financial test are prepared, a letter worded as specified in [10 CSR 20-11 Appendix,] Form 13 [(see 10 CSR 20-11.115)], **included herein.**

(5) The director may require reports of financial condition at any time from the local government owner or operator. If the director finds, on the basis of the reports or other information, that the local government owner or operator no longer meets the financial test

requirements of [10 CSR 20-11.113(2) and (3)] **10 CSR 26-3.113(2) and (3)**, the owner or operator shall obtain alternate coverage within thirty (30) days after notification of the finding.

Form 13—Local Government Financial Test

The following text should be used to comply with the requirements of 10 CSR 26-3.113(3) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of *[insert: name and address of the owner or operator]*. This letter is in support of the use of the local government financial test to demonstrate financial responsibility for *[insert: “taking corrective action” and/or “compensating third parties for bodily injury and property damage”]* caused by *[insert: “sudden accidental releases” and/or “nonsudden accidental releases”]* in the amount of at least *[insert: dollar amount]* per occurrence and *[insert: dollar amount]* annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this financial test *[List for each facility: the name and address of the facility where tanks assured by this financial test are located. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to 10 CSR 26-2.022]*.

This owner or operator has not received an adverse opinion, or a disclaimer of opinion from an independent auditor on its financial statements for the latest completed fiscal year. Any outstanding issues of general obligation or revenue bonds, if rated, have a Moody's rating of Aaa, Aa, A, or Baa or a Standard and Poor's rating of AAA, AA, A, or BBB; if rated by both firms, the bonds have a Moody's rating of Aaa, Aa, A, or Baa and a Standard and Poor's rating of AAA, AA, A, or BBB.

WORKSHEET FOR MUNICIPAL FINANCIAL TEST**Part I: Basic Information****1. Total Revenues****a. Revenues (dollars)**

Value of revenues excludes liquidation of investments and issuance of debt. Value includes all general fund operating and nonoperating revenues, as well as all revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity.

b. Subtract interfund transfers (dollars)**c. Total Revenues (dollars)****2. Total Expenditures****a. Expenditures (dollars)**

Value consists of the sum of general fund operating and nonoperating expenditures including interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues.

b. Subtract interfund transfers (dollars)**c. Total Expenditures (dollars)****3. Local Revenues****a. Total Revenues (from 1c) (dollars)****b. Subtract total intergovernmental transfers (dollars)****c. Local Revenues (dollars)****4. Debt Service****a. Interest and fiscal charges (dollars)****b. Add debt retirement (dollars)****c. Total Debt Service (dollars)****5. Total Funds (dollars)**

(Sum of amounts held as cash and investment securities from all funds, excluding amounts held for employee retirement funds, agency funds, and trust funds)

6. Population (persons)**Part II: Application of Test****7. Total Revenues to Population****a. Total Revenues (from 1c)****b. Population (from 6)****c. Divide 7a by 7b****d. Subtract 417****e. Divide by 5.212****f. Multiply by 4.095****8. Total Expenses to Population****a. Total Expenses (from 2c)****b. Population (from 6)****c. Divide 8a by 8b****d. Subtract 524****e. Divide by 5401****f. Multiply by 4.095**

9. Local Revenues to Total Revenues
 - a. Local Revenues (from 3c)
 - b. Total Revenues (from 1c)
 - c. Divide 9a by 9b
 - d. Subtract .695
 - e. Divide by .205
 - f. Multiply by 2.840
10. Debt Services to Population
 - a. Debt Service (from 4d)
 - b. Population (from 6)
 - c. Divide 10a by 10b
 - d. Subtract 51
 - e. Divide by 1038
 - f. Multiply by -1.866
11. Debt Service to Total Revenues
 - a. Debt Service (from 4d)
 - b. Total Revenues (from 1c)
 - c. Divide 11a by 11b
 - d. Subtract .068
 - e. Divide by .259
 - f. Multiply by -3.533
12. Total Revenues to Total Expenses
 - a. Total Revenues (from 1c)
 - b. Total Expenses (from 2c)
 - c. Divide 12a by 12b
 - d. Subtract .910
 - e. Divide by .899
 - f. Multiply by 3.458
13. Funds Balance to Total Revenues
 - a. Total Funds (from 5)
 - b. Total Revenues (from 1c)
 - c. Divide 13a by 13b
 - d. Subtract .891
 - e. Divide by 9.156
 - f. Multiply by 3.270
14. Funds Balance to Total Expenses
 - a. Total Funds (from 5)
 - b. Total Expenses (from 2c)
 - c. Divide 14a by 14b
 - d. Subtract .866
 - e. Divide by 6.409
 - f. Multiply by 3.270
15. Total Funds to Population
 - a. Total Funds (from 5)
 - b. Population (from 6)
 - c. Divide 15a by 15b
 - d. Subtract 270
 - e. Divide by 4548
 - f. Multiply by 1.866
16. Add 7f + 8f + 9f + 10f + 11f + 12f + 13f + 14f + 15f + 4.937

I hereby certify that the financial index shown on line 16 of the worksheet is greater than zero and that the wording of this letter is identical to the wording specified in 10 CSR 26-3.113(3) as the regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

AUTHORITY: section[s] 319.114, RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] 2000. This rule originally filed as 10 CSR 20-11.113. Original rule filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.114] **10 CSR 26-3.114 Local Government Guarantee.** The department is moving the rule, amending sections (1)–(7), and adding Forms 14, 15, 16, and 17 to the rule.

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) A local government owner or operator may satisfy the requirements of [10 CSR 20-11.093] **10 CSR 26-3.093** by obtaining a guarantee that conforms to the requirements of this rule. The guarantor must be either the state in which the local government owner or operator is located or a local government having a substantial governmental relationship with the owner and operator and issuing the guarantee as an act incident to that relationship. A local government acting as the guarantor shall demonstrate that it meets the—

(A) Bond rating test requirement of [10 CSR 20-11.112] **10 CSR 26-3.112** and deliver a copy of the chief financial officer's letter as contained in [10 CSR 20-11.112(4) or (5)] **10 CSR 26-3.112(4) or (5)** to the local government owner or operator;

(B) Worksheet test requirements of [10 CSR 20-11.113] **10 CSR 26-3.113** and deliver a copy of the chief financial officer's letter as contained in [10 CSR 20-11.113(3)] **10 CSR 26-3.113(3)** to the local government owner or operator; or

(C) Local government fund requirements of [10 CSR 20-11.115(1)(A), (B) or (C)] **10 CSR 26-3.115(1)(A), (B), or (C)** and deliver a copy of the chief financial officer's letter as contained in [10 CSR 20-11.115] **10 CSR 26-3.115** to the local government

owner or operator.

(2) If the local government guarantor is unable to demonstrate financial assurance under any of [10 CSR 20-11.112] **10 CSR 26-3.112**, [10 CSR 20-11.113] **10 CSR 26-3.113**, [10 CSR 20-11.115(1)(A), (B) or (C)] or **10 CSR 26-3.115(1)(A), (B), or (C)**, at the end of the financial reporting year, the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator. The guarantee will terminate no less than one hundred twenty (120) days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator shall obtain alternative coverage as specified in [10 CSR 20-11.110(5)] **10 CSR 26-3.110(5)**.

(3) The guarantee agreement shall be worded as specified in [10 CSR 20-11 Appendix,] Form 14 or 15 [(see 10 CSR 20-11.115)], **included herein**, depending on which of the following alternative guarantee arrangements is selected, if in the default or incapacity of the owner or operator, the guarantor guarantees to—

(A) Fund a standby trust as directed by the director, the guarantee shall be worded as specified in [10 CSR 20-11 Appendix,] Form 14 [(see 10 CSR 20-11.115)], **included herein**;

(B) Make payments as directed by the director for taking corrective action or compensating third parties for bodily injury and property damage, the guarantee shall be worded as specified in [10 CSR 20-11 Appendix,] Form 15 [(see 10 CSR 20-11.115)], **included herein**.

(4) If the guarantor is the state, the local government guarantee with standby trust shall be worded as specified in [10 CSR 20-11 Appendix,] Form 14 [(see 10 CSR 20-11.115)], **included herein**.

(5) If the guarantor is a local government, the local government guarantee with standby trust shall be worded as specified in [10 CSR 20-11 Appendix,] Form 15 [(see 10 CSR 20-11.115)], **included herein**.

(6) If the guarantor is the state, the local government guarantee without standby trust shall be worded as specified in [10 CSR 20-11 Appendix,] Form 16 [(see 10 CSR 20-11.115)], **included herein**.

(7) If the guarantor is a local government, the local government guarantee without standby trust shall be worded as specified in [10 CSR 20-11 Appendix,] Form 17 [(see 10 CSR 20-11.115)], **included herein**.

Form 14—Local Government Guarantee With Standby Trust Made by a State

The following text should be used to comply with the requirements of 10 CSR 26-3.114(4) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Local Government Guarantee With Standby Trust Made by a State

Guarantee made this [date] by [name of state], herein referred to as guarantor, to [the state implementing agency] and to any and all third parties, and obligees, on behalf of [local government owner or operator].

Recitals

1. Guarantor is the state.

2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 10 CSR 26-2 and 3, and the name and address of the facility]. This guarantee satisfies 10 CSR 26-3.090–10 CSR 26-3.115 requirements for assuring funding for [insert: “taking corrective action” and/or “compensating third parties for bodily injury and property damage caused by” either “sudden accidental releases” or “nonsudden accidental releases” or “accidental releases”; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

3. Guarantor guarantees to [implementing agency] and to any and all third parties that:

In the event that [local government owner or operator] fails to provide alternative coverage within sixty (60) days after receipt of a notice of cancellation of this guarantee and the [director of the implementing agency] has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the [director] shall fund a standby trust fund in accordance with the provisions of 10 CSR 26-3.108, in an amount not to exceed the coverage limits specified above.

In the event that the [director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 10 CSR 26-2.075–10 CSR 26-2.082, the guarantor upon written instructions from the [director] shall fund a standby trust fund in accordance with the provisions of 10 CSR 26-3.108, in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by [“sudden” and/or “nonsudden”] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from the injury or damage, the guarantor, upon written instructions from the [director], shall fund a standby trust in accordance with the provisions of 10 CSR 26-3.108 to satisfy the judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

4. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code naming guarantor as debtor, within ten (10) days after commencement of the proceeding.

5. Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 10 CSR 26-2 and 3.

6. Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 10 CSR 26-3.090–10 CSR 26-3.115 for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], the cancellation to become effective no earlier than one hundred twenty (120) days after receipt of the notice by [owner or operator], as evidenced by the return receipt.

7. The guarantor’s obligation does not apply to any of the following:

A. Any obligation of [local government owner or operator] under a Workers’ Compensation, disability benefits, or unemployment compensation law or other similar law;

B. Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];

C. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

D. Property damage to any property owned, rented, loaded to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

E. Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 10 CSR 26-3.093.

8. Guarantor expressly waives notice of acceptance of this guarantee by [the implementing agency], by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 10 CSR 26-3.114(4) as the rules were constituted on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

Form 15—Local Government Guarantee With Standby Trust Made by a Local Government

The following text should be used to comply with the requirements of 10 CSR 26-3.114(5) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Local Government Guarantee With Standby Trust Made By a Local Government

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of [name of state], herein referred to as guarantor, to [the state implementing agency] and to any and all third parties, and obligees, on behalf of [local government owner or operator].

Recitals

1. Guarantor meets or exceeds [select one: the local government bond rating test requirements of 10 CSR 26-3.112, the local government financial test requirements of 10 CSR 26-3.113, or the local government fund under 10 CSR 26-3.115(1)(A), (B), or (C)].

2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 10 CSR 26-2 and 3, and the name and address of the facility]. This guarantee satisfies 10 CSR 26-3.090–10 CSR 26-3.115 requirements for assuring funding for [insert: “taking corrective action” and/or “compensating third parties for bodily injury and property damage caused by” either “sudden accidental releases” or “nonsudden accidental releases” or “accidental releases;” if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

3. Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to [implementing agency] and to any and all third parties that:

In the event that [local government owner or operator] fails to provide alternative coverage within sixty (60) days after receipt of a notice of cancellation of this guarantee and [the director of the implementing agency] has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from [the director] shall fund a standby trust fund in accordance with the provisions of 10 CSR 26-3.108, in an amount not to exceed the coverage limits specified above.

In the event that [the director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 10 CSR 26-2.075–10 CSR 26-2.082, the guarantor upon written instructions from [the director] shall fund a standby trust fund in accordance with the provisions of 10 CSR 26-3.108, in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by [“sudden” and/or “nonsudden”] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from the injury or damage, the guarantor, upon written instructions from [the director], shall fund a standby trust in accordance with the provisions of 10 CSR 26-3.108 to satisfy the judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

4. Guarantor agrees that, if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in section 10 CSR 26-3.096(2), guarantor shall send within one hundred twenty (120) days of the failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

5. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code naming guarantor as debtor, within ten (10) days after commencement of the proceeding.

6. Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 10 CSR 26-2 and 3.

7. Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 10 CSR 26-3.090–10 CSR 26-3.115 for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], the cancellation to become effective no earlier than one hundred twenty (120) days after receipt of the notice by [owner or operator], as evidenced by the return receipt.

8. The guarantor’s obligation does not apply to any of the following:

A. Any obligation of [local government owner or operator] under a Workers’ Compensation, disability benefits, or unemployment compensation law or other similar law;

B. Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];

C. Bodily injury or property damage arising from the ownership, maintenance, use or entrustment to others of any aircraft, motor vehicle or watercraft;

D. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

E. Bodily injury or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 10 CSR 26-3.093.

9. Guarantor expressly waives notice of acceptance of this guarantee by [the implementing agency], by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 10 CSR 26-3.114(5) as the rules were constituted on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

Form 16—Local Government Guarantee Without Standby Trust Made by a State

The following text should be used to comply with the requirements of 10 CSR 26-3.114(6) as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:

Local Government Guarantee Without Standby Trust Made by a State

Guarantee made this [date] by [name of state], herein referred to as guarantor, to [the state implementing agency] and to any and all third parties, and obligees, on behalf of [local government owner or operator].

Recitals

1. Guarantor is the state.

2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 10 CSR 26-2 and 3, and the name and address of the facility.]. This guarantee satisfies 10 CSR 26-3.090–10 CSR 26-3.115 requirements for assuring funding for [insert: “taking corrective action” and/or “compensating third parties for bodily injury and property damage caused by” either “sudden accidental releases” or “nonsudden accidental releases” or “accidental releases;” if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

3. Guarantor guarantees to [implementing agency] and to any and all third parties and obligees that:

In the event that [local government owner or operator] fails to provide alternative coverage within sixty (60) days after receipt of a notice of cancellation of this guarantee and the [director of the implementing agency] has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon written instructions from [the director] shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

In the event that [the director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of above-identified tank(s) in accordance with 10 CSR 26-2.075–10 CSR 26-2.082, the guarantor upon written instructions from [the director] shall make funds available to pay for corrective actions in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by [“sudden” and/or “nonsudden” accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from the injury or damage, the guarantor, upon written instructions from [the director], shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

4. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code, naming guarantor as debtor, within ten (10) days after commencement of the proceeding.

5. Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 10 CSR 26-2 and 3.

6. Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 10 CSR 26-3.090–10 CSR 26-3.115 for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], the cancellation to become effective no earlier than one hundred twenty (120) days after receipt of the notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the guarantor agrees to remain bound to the terms of this guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the guarantee with respect to future releases.

7. The guarantor’s obligation does not apply to any of the following:

A. Any obligation of [local government owner or operator] under a workers’ compensation disability benefits or unemployment compensation law or other similar law;

B. Bodily injury to an employee of [local government owner or operator] arising from, and in the course of, employment by [local government owner or operator];

C. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

D. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

E. Bodily injury or property damage for which [owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 10 CSR 26-3.093.

8. Guarantor expressly waives notice of acceptance of this guarantee by [the implementing agency], by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 10 CSR 26-3.114(6) as the regulations were constituted on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

Form 17—Local Government Guarantee Without Standby Trust Made by a Local Government

The following text should be used to comply with the requirements of 10 CSR 26-3.114(7) as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:

Local Government Guarantee Without Standby Trust Made by a Local Government

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of [name of state], herein referred to as guarantor, to [the state implementing agency] and to any and all third parties, and obligees, on behalf of [local government owner or operator].

Recitals

1. Guarantor meets or exceeds [select one: the local government bond rating test requirements of 10 CSR 26-3.112, the local government financial test requirements of 10 CSR 26-3.113, the local government fund under 10 CSR 26-3.115(1)(A), (B), or (C)].

2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 10 CSR 26-2 and 3, and the name and address of the facility.] This guarantee satisfies 10 CSR 26-3.090–10 CSR 26-3.115 requirements for assuring funding for [“taking corrective action” and/or “compensating third parties for bodily injury and property damage caused by” either “sudden accidental releases” or “nonsudden accidental releases” or “accidental releases”; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [dollar amount] per occurrence and [dollar amount] annual aggregate.

3. Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to [implementing agency] and to any and all third parties and obligees that:

In the event that [local government owner or operator] fails to provide alternative coverage within sixty (60) days after receipt of a notice of cancellation of this guarantee and the [director of the implementing agency] has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon written instructions from [the director] shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

In the event that [the director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 10 CSR 26-2.075–10 CSR 26-2.082, the guarantor upon written instructions from [the director] shall make funds available to pay for corrective actions in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by [“sudden” and/or “nonsudden”] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from the injury or damage, the guarantor, upon written instructions from [the director], shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

4. Guarantor agrees that if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism, guarantor shall send within one hundred twenty (120) days of the failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

5. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code naming guarantor as debtor, within ten (10) days after commencement of the proceeding.

6. Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 10 CSR 26-2 and 3.

7. Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 10 CSR 26-3.090–10 CSR 26-3.115 for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], the cancellation to become effective no earlier than one hundred twenty (120) days after receipt of the notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the guarantor agrees to remain bound to the terms of this guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the guarantee with respect to future releases.

8. The guarantor’s obligation does not apply to any of the following:

A. Any obligation of [local government owner or operator] under a workers’ compensation disability benefits or unemployment compensation law or other similar law;

B. Bodily injury to an employee of [local government owner or operator] arising from, and in the course of, employment by [local government owner or operator];

C. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

D. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

E. Bodily injury or property damage for which [owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 10 CSR 26-3.093.

9. Guarantor expressly waives notice of acceptance of this guarantee by [the implementing agency], by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 10 CSR 26-3.114(7) as the regulations were constituted on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

AUTHORITY: section[s] 319.114, RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] 2000. This rule originally filed as 10 CSR 20-11.114. Original rule filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [11]3—Underground Storage Tanks—Financial Responsibility

PROPOSED AMENDMENT

[10 CSR 20-11.115] 10 CSR 26-3.115 Local Government Fund.

The department is moving the rule, amending sections (1) and (2), deleting the forms following the rule in Code, and adding Form 18 to the rule.

PURPOSE: This amendment moves this Title 10, Division 20, Chapter 11 rule to Title 10, Division 26, Chapter 3 to reflect a change in authority for the rule from the Clean Water Commission to the Hazardous Waste Management Commission.

(1) A local government owner or operator may satisfy the requirements of [10 CSR 20-11.093] **10 CSR 26-3.093** by establishing a dedicated fund account that conforms to the requirements of this rule. Except as specified in subsection (1)(B) of this rule, a dedicated fund may not be commingled with other funds or otherwise used in normal operations. A dedicated fund will be considered eligible if it meets one (1) of the following requirements:

(A) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order to pay for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks (USTs) and is funded for the full amount of coverage required under [10 CSR 20-11.093] **10 CSR 26-3.093**, or funded for part of the required amount of coverage and used in combination with other mechanisms that provides the remaining coverage; or

(B) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order as a contingency fund for general emergencies, including taking corrective action and

compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, and is funded for five (5) times the full amount of coverage required under [10 CSR 20-11.093] **10 CSR 26-3.093**, or funded for part of the required amount of coverage and used in combination with other mechanisms that provide the remaining coverage. If the fund is funded for less than five (5) times the amount of coverage required under [10 CSR 20-11.093] **10 CSR 26-3.093**, the amount of financial responsibility demonstrated by the fund may not exceed one-fifth (1/5) the amount in the fund; or

(2) To demonstrate that it meets the requirements of the local government fund, the chief financial officer of the local government owner or operator, guarantor, or both, shall sign a letter worded exactly as specified in [10 CSR 20-11 Appendix,] Form 18 [(see 10 CSR 20-11.115)], **included herein**.

Form 18—Local Government Fund

The following text should be used to comply with the requirements of 10 CSR 26-3.115(1)(D) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of *[insert: name and address of local government owner or operator, or guarantor]*. This letter is in support of the use of the local government fund mechanism to demonstrate financial responsibility for *[insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"]* caused by *[insert: "sudden accidental releases" and/or "nonsudden accidental releases"]* in the amount of at least *[insert: dollar amount]* per occurrence and *[insert: dollar amount]* annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this local government fund mechanism: *[List for each facility: the name and address of the facility where tanks are assured by the local government fund]*.

[Insert: "The local government fund is funded for the full amount of coverage required under 10 CSR 26-3.093, or funded for part of the required amount of coverage and used in combination with other mechanisms that provide the remaining coverage," or "The local government fund is funded for ten (10) times the full amount of coverage required under 10 CSR 26-3.093, or funded for part of the required amount of coverage and used in combination with other mechanisms that provide the remaining coverage," or "A payment is made to the fund once every year for seven (7) years until the fund is fully-funded] and [name of local government owner or operator] has [available bonding authority, approved through voter referendum, of an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund" or "A payment is made to the fund once every year for seven (7) years until the fund is fully-funded and I have attached a letter signed by the state attorney general stating that 1) the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws and 2) that prior voter approval is not necessary before use of the bonding authority"]].

The details of the local government fund are as follows: Amount in Fund (market value of fund of close of last fiscal year):

[If fund balance is incrementally funded as specified in 10 CSR 26-3.107(1)(C), insert:

Amount added to fund in the most recently completed fiscal year:

Number of years remaining in the pay-in period:]

A copy of the state constitutional provision, or local government statute, charter, ordinance or order dedicating the fund is attached.

I hereby certify that the wording of this letter is identical to the wording specified in 10 CSR 26-3.115(2) as the regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

AUTHORITY: section[s] 319.114, *RSMo [(Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993)] 2000*. This rule originally filed as 10 CSR 20-11.115. Original rule filed Aug. 3, 1993, effective April 9, 1994. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [13]4—Underground Storage Tanks—
Administrative Penalties**

PROPOSED AMENDMENT

[10 CSR 20-13.080] **10 CSR 26-4.080 Administrative Penalty Assessment.** The department is moving the rule and amending subsection (2)(A).

PURPOSE: The rule number and the rule reference in section (2) are amended to reflect movement of the rules to Title 10, Division 26, Chapter 4 of the *Code of State Regulations*.

(2) Definitions.

(A) Definitions for key words used in this rule may be found in [10 CSR 20-10.012] **10 CSR 26-2.012** and section 319.100, *RSMo*.

AUTHORITY: sections 319.137 and 319.139, *RSMo Supp. 2008 [and 644.026, RSMo Supp. 1998]*. This rule originally filed as 10 CSR 20-13.080. Original rule filed Dec. 31, 1991, effective Aug. 6, 1992. Rescinded and readopted: Filed April 15, 1999, effective March 30, 2000. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning

at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [15]5—Aboveground Storage Tanks—Release
Response**

PROPOSED AMENDMENT

[10 CSR 20-15.010] **10 CSR 26-5.010 Applicability and Definitions.** The department is moving the rule.

PURPOSE: The rule number is amended to reflect movement of the rule to Title 10, Division 26, Chapter 5 of the *Code of State Regulations*.

AUTHORITY: section[s] 319.137, *RSMo Supp. 2008 [and 644.026, RSMo 2000]*. This rule originally filed as 10 CSR 20-15.010. Original rule filed Sept. 13, 2001, effective May 30, 2002. Moved and amended: Filed Feb. 13, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [15]5—Aboveground Storage Tanks—Release
Response**

PROPOSED AMENDMENT

[10 CSR 20-15.020] **10 CSR 26-5.020 Release Reporting and Initial Release Response Measures.** The department is moving the rule and amending section (9).

PURPOSE: *The rule number and the rule reference in section (9) of the rule are amended to reflect movement of the rules to Title 10, Division 26, Chapter 5 of the Code of State Regulations.*

(9) Written Report. The owner or operator of the AST shall submit a written report on all activities required by this rule to the department within thirty (30) days of the date of discovery of the release. The report shall demonstrate compliance with all applicable requirements of this rule. Upon request, the department may allow another reasonable period of time for submission of the report. Upon review of this report, the department will determine whether the owner or operator must conduct a site characterization, as described in [10 CSR 20-15.030] **10 CSR 26-5.030**. If, in the judgment of the department, the information in the report is insufficient to adequately make this determination, the department may request additional information.

AUTHORITY: *section[s] 319.137, RSMo Supp. 2008 [and 644.026, RSMo 2000]. This rule originally filed as 10 CSR 20-15.020. Original rule filed Sept. 13, 2001, effective May 30, 2002. Moved and amended: Filed Feb. 13, 2009.*

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division [20]26—[Clean Water Commission]
Petroleum and Hazardous Substance Storage Tanks
Chapter [15]5—Aboveground Storage Tanks—Release Response

PROPOSED AMENDMENT

[10 CSR 20-15.030] **10 CSR 26-5.030 Site Characterization and Corrective Action.** The department is moving the rule and amending sections (1) and (2).

PURPOSE: *The rule number and the rule references in subsection (1)(A) and paragraph (2)(B)8. are amended to reflect movement of the rules to Title 10, Division 26, Chapter 5 of the Code of State Regulations.*

(1) Site Characterization.

(A) At the request of the department in response to a release, the owner or operator of an **aboveground storage tank (AST)** shall conduct a site characterization to include a full investigation of the release, the release site, and the surrounding area to determine the full extent and location of soils contaminated by the release and the presence and concentrations of contamination in the groundwater if the Initial Release Response Report submitted in compliance with [10 CSR 20-15.020] **10 CSR 26-5.020** documents any of the following:

1. Contaminated groundwater or surface water above action levels;
2. Contaminated soils above action levels;
3. Presence of free product; or
4. Some other characteristic determined by the department to require further investigation because of its potential to result in pollution of the waters of the state or a potential threat to human health and the environment.

(2) Site Characterization Reporting. A site characterization shall include, at a minimum, information about the site and the nature of the release. The site characterization report containing this information shall be submitted to the department within forty-five (45) days of date of the department's request to conduct site characterization in subsection (1)(A) of this rule. The department may approve an alternative reporting schedule. This information shall include, but is not limited to, the following:

- (B) Data from available sources or site investigations concerning the following factors:
1. Surrounding land use;
 2. The hydrogeologic characteristics of the site and the surrounding area;
 3. Use and approximate locations of wells affected or potentially affected by the release;
 4. Surface and subsurface soil conditions at the site and the immediate surrounding area;
 5. Locations of subsurface utilities;
 6. The proximity, quality, and current and potential future uses of nearby surface and groundwater; and
 7. The potential effects of residual contamination on nearby surface and groundwater; and
 8. Any additional relevant information assembled while carrying out the steps required in [10 CSR 20-15.020] **10 CSR 26-5.020** and this rule.

AUTHORITY: *section[s] 319.137, RSMo Supp. 2008 [and 644.026, RSMo 2000]. This rule originally filed as 10 CSR 20-15.030. Original rule filed Sept. 13, 2001, effective May 30, 2002. Moved and amended: Filed Feb. 13, 2009.*

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous

Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 26—Petroleum and Hazardous Substance
Storage Tanks
Chapter 1—Underground Storage Tanks—Organization

PROPOSED RULE

10 CSR 26-1.010 Organization

PURPOSE: This rule complies with section 536.023.3., RSMo, which requires each state agency to adopt as a rule a description of its organization and general courses and methods of its operation and the methods and procedures whereby the public may obtain information or make submissions or requests.

(1) Division 26 pertains to petroleum and hazardous substance storage tanks. Rules pertaining to underground storage tanks in Chapters 2, 3, and 4 of Division 26, Title 10 are under the authority of the Missouri Hazardous Waste Management Commission in accordance with sections 319.109 and 319.137, RSMo. Rules pertaining to aboveground storage tanks in Chapter 5 of Division 26, Title 10 are under the authority of the Missouri Clean Water Commission in accordance with section 644.026, RSMo.

(2) In compliance with section 536.023.3, RSMo, 10 CSR 25-1.010 describes the roles of the Hazardous Waste Management Commission and the Department of Natural Resources. In addition to the rule-making authorities cited at 10 CSR 25-1.010(2), the Hazardous Waste Management Commission has rulemaking authority for underground storage tanks as provided in sections 319.109 and 319.137, RSMo.

(A) In addition to the description at 10 CSR 25-1.010(3), the department's Hazardous Waste Program provides day-to-day operation and exercises general supervision of the administration and enforcement of sections 319.100–319.139, RSMo, and implementing regulations within this Division 26.

(B) The methods and procedures whereby the public may obtain information or make submissions or requests regarding the department or the Hazardous Waste Management Commission are explained in 10 CSR 25-1.010(1) and (5).

(3) In compliance with section 536.023.3, RSMo, 10 CSR 20-1.010 describes the role of the Clean Water Commission and the department related to the conservation, protection, maintenance, and improvement of waters of the state.

(A) The department's Hazardous Waste Program provides day-to-day operation and exercises general supervision of the administration and enforcement of the aboveground storage tank regulations within Division 26, Chapter 5.

(B) The methods and procedures whereby the public may obtain information or make submissions or requests regarding the Clean Water Commission are explained in 10 CSR 20-1.010.

AUTHORITY: section 536.023.3, RSMo Supp. 2008. Original rule filed Feb. 13, 2009.

PUBLIC COST: This proposed rule will not cost state agencies more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 26—Petroleum and Hazardous Substance
Storage Tanks
Chapter 2—Underground Storage Tanks—Technical Regulations

PROPOSED RULE

10 CSR 26-2.075 Risk-Based Corrective Action Process

PURPOSE: This rule establishes the general requirements for evaluating risks posed to human health, public welfare, and the environment by contamination resulting from a release of petroleum from a petroleum storage tank system.

(1) If the maximum soil or groundwater concentrations for chemicals of concern at a site exceed the default target levels established by the department and the owners and operators choose not to undertake corrective action to achieve the default target levels, then the owners and operators shall conduct a risk-based evaluation and, as warranted, corrective action in accordance with this rule and 10 CSR 26-2.076–10 CSR 26-2.082.

(2) (Reserved)

(3) Owners and operators shall undertake the following actions to evaluate and determine appropriate corrective action to address risk posed by chemicals of concern at a site—

(A) Develop a conceptual model for the site based on site-specific data obtained through site characterization in accordance with 10 CSR 26-2.076;

(B) Determine applicable target levels for the chemicals of concern at the site using the tiered risk assessment process in 10 CSR 26-2.078;

(C) Compare concentrations of chemicals of concern to applicable target levels to determine whether an unacceptable risk is present; and

(D) Undertake corrective action necessary to eliminate or reduce risk to an acceptable level at a site.

(4) Owners and operators shall develop a conceptual model for the site that integrates available data and information into a coherent description of geologic and hydrogeologic characteristics and conditions, distribution of chemicals of concern in affected media, actual and potential human and ecological receptors under current and reasonably anticipated future conditions, and exposure pathways at a

site. The conceptual model for the site shall consist of a narrative and graphical description of site characteristics and conditions.

(5) The conceptual model shall be used to identify data and information for the site that is missing or inadequate and as a guide for site characterization and corrective action. The conceptual model shall be revised and refined as additional or more detailed data or information is obtained to reflect current understanding of the site.

(6) The conceptual model shall be developed via the collection of site data pertaining to the source and distribution of chemicals of concern, geology and hydrogeology, human and ecological receptors, routes of exposure, exposure pathways, and chemical of concern transport mechanisms. All aspects of the conceptual model shall rely on site-specific data, information obtained from approved literature sources, or both.

(7) Components of Conceptual Site Model. The conceptual site model shall include qualitative and quantitative information that describes the relevant site-specific factors that determine the risk that chemicals of concern pose to human health and the environment. The conceptual site model shall include the following key elements:

(A) The chemical release scenario, known and suspected source(s), and chemicals of concern;

(B) Affected media;

(C) Spatial and temporal distribution of chemicals of concern in the various affected media including presence and extent of light non-aqueous phase liquid;

(D) Nature, geometry, and setting of light non-aqueous phase liquid;

(E) Description of any known existing or proposed land or water use restrictions;

(F) Current and reasonably anticipated future land and groundwater use;

(G) Description of site stratigraphy, geology, hydrogeology, meteorology, determination of the predominant vadose zone soil type, and identification of surface water bodies that may potentially be affected by site chemicals of concern;

(H) Remedial activities conducted to date; and

(I) An exposure model that identifies human and ecological receptors, exposure pathways, and routes of exposure under current and reasonably anticipated future land use conditions.

(8) Identification of Chemicals of Concern. Potential chemicals of concern at the site shall be identified based on the nature of the petroleum product or products known or suspected to have been released as listed in Table 1 of this rule, included herein. Owners and operators shall determine the specific chemicals of concern at a site based on laboratory analytical data for samples collected at the site.

(A) Polycyclic aromatic hydrocarbons other than naphthalene shall be evaluated as chemicals of concern at sites where total petroleum hydrocarbons-diesel range organics or total petroleum hydrocarbons-oil range organics are detected in soil at a concentration at or above the required reporting limits.

(B) 1,2-dibromoethane, 1,2-dichloroethane, and lead shall be considered potential chemicals of concern at sites where leaded gasoline may have been released.

(C) At sites where waste oil or used oil may have been released, potential chemicals of concern shall include arsenic, barium, cadmium, chromium, lead, and selenium.

(9) Land Use. Owners and operators shall evaluate land use for all properties affected or potentially affected by chemicals of concern from the release under current and reasonably anticipated future conditions. Land use shall be identified as either residential or nonresidential. Land use information shall be used in the identification of actual and potential receptors at the site.

(A) Determination of Reasonably Anticipated Future Land Use. The department will make final decisions with respect to the reasonably anticipated future land use of each property that is a part of a site. The department will make such decisions in accordance with the following:

1. Decisions will be made in consideration of information relevant to the future use of a property provided to the department by owners and operators, the owner of an adjacent or nearby property affected by a release from the source property being evaluated, or either party's environmental consultant or other authorized designee.

2. The department may also consider information obtained from other sources including, but not limited to, local, county, state, and federal governmental entities and actual and prospective future purchasers, developers, tenants, and users of the property to which the decision pertains.

3. The department may request future land use information from the owner, or the owner's authorized designee, of an adjacent or nearby property affected by a release.

(10) Groundwater Use. Owners and operators shall identify current and reasonably anticipated future use of groundwater in the vicinity of the site. All groundwater zones in the vicinity of the site that are, or may potentially be, targeted for installation of domestic water wells shall be identified and evaluated to determine whether and to what extent the zones are interconnected. Other non-domestic groundwater uses, if any, shall also be identified.

(A) Owners and operators shall determine whether existing wells are present on the site, whether private wells are present within one quarter (0.25) mile, and whether public wells are present within one (1) mile of the site. Any existing wells shall be evaluated to determine whether the wells or the groundwater zone they are situated in are or are reasonably likely to be affected by chemicals of concern associated with the site.

(B) Reasonably anticipated future use of groundwater for each identified groundwater zone shall be evaluated in accordance with the process shown in Figure 1 of this rule, included herein, and the following criteria:

1. Activity and use limitations. Determine if an activity and use limitation is in place that minimizes or eliminates the potential that a specified groundwater zone will serve as a future source of domestic water. The sufficiency of an activity and use limitation to prevent groundwater use shall be determined by the department;

2. Groundwater quality and yield. Groundwater shall be considered suitable for consumptive use if both the following criteria are met:

A. The groundwater contains less than ten thousand milligrams per liter (10,000 mg/L) total dissolved solids; and

B. The groundwater zone is capable of producing a minimum of one quarter (0.25) gallon per minute or three hundred sixty (360) gallons per day on a sustained basis;

3. Sole source. A groundwater zone that is the only viable source of water at or in the vicinity of the site shall be considered to be a potential source of domestic water, irrespective of groundwater quality and yield considerations;

4. Reasonable probability of future groundwater use. The probability that a groundwater zone could be used as a future source of water for domestic use shall be a weight of evidence determination made by the department based on consideration of the criteria described in paragraphs (10)(B)1.-3. of this rule and the following factors:

A. Current groundwater use patterns in the vicinity of the site;

B. Availability of alternative water supplies, including consideration of other groundwater zones, municipal water supply systems, and surface water sources;

C. Urban development considerations for sites in areas of intensive historic industrial or commercial activity, having groundwater zones in hydraulic communication with industrial or commercial surface activity, and located within metropolitan areas with a

population of at least seventy thousand (70,000) as established by the 1970 census; and

D. Aquifer capacity limitations that may affect the number of production wells that can be supported; and

5. If the department determines that a groundwater zone has a reasonable probability of future use as a domestic water supply, the groundwater zone shall be evaluated to determine if there is a reasonable probability that the groundwater zone is or could be affected by chemicals of concern associated with the site.

A. The evaluation shall consider the nature and extent of contamination at the site, site hydrogeology including the potential presence of karst features, contaminant fate and transport factors and mechanisms, and other pertinent variables.

(11) Surface Water and Sediment. Owners and operators shall identify any streams or other surface water bodies that are or potentially may be affected by the release or by chemicals of concern at the site. The characteristics of the surface water body shall be identified.

(A) Actual and potential impacts to streams and other surface water bodies from a release shall be evaluated and surface water quality protected in accordance with the requirements of 10 CSR 20-7.031.

(12) Utilities. Owners and operators shall identify and evaluate underground utilities within a site and their ability to serve as conduits for migration of light non-aqueous phase liquid and chemicals of concern. In addition, owners and operators shall determine whether and to what extent chemicals of concern pose risk due to infiltration or permeation of the utility lines themselves, in particular water lines.

(13) Exposure Model. Owners and operators shall develop an exposure model that identifies the environmental media affected by the release, actual and potential receptors, exposure pathways linking the affected media to a receptor, and routes of exposure for all contaminated media at a site under current and reasonably anticipated future land use conditions. If chemicals of concern have migrated from the property at which the release occurred on to adjacent or nearby property or properties, exposure pathways at the affected adjacent or nearby property must be considered independent of the exposure pathways on the property at which the contamination originated.

(A) If the exposure model developed demonstrates that no exposure pathways are complete at the site under current and reasonably anticipated future land use conditions, owners and operators may request that the department make a no further remedial action determination subject to the conditions in section 10 CSR 26-2.082(4).

(14) The exposure model shall identify—

(A) All complete exposure pathways for current and reasonably anticipated future land use;

(B) The exposure domain for each exposure pathway found to be complete; and

(C) The point of exposure for each exposure pathway.

(15) Receptors. Owners and operators shall identify actual and potential human and ecological receptors at the site.

(A) All actual and potential human receptors shall be identified. At a minimum, the following receptors shall be considered at all sites:

1. Resident, including a child, adult, and age-adjusted individual;
2. Non-resident adult worker; and
3. Adult construction worker.

(B) Actual or potential ecological receptors and habitats shall be identified. The screening process in section (17) of this rule shall be used to determine the presence of ecological receptors to be considered.

(16) Exposure Pathways. Owners and operators shall identify expo-

sure pathways linking the affected media to a receptor and routes of exposure at the site and determine which exposure pathways are complete and which are incomplete under current and reasonably anticipated future conditions. All exposure pathways shall be included in the exposure model for the site, and owners and operators shall clearly explain which pathways are complete and why an exposure pathway is or is not complete and support that conclusion with site-specific data.

(A) An exposure pathway shall be considered complete where there is an affected environmental media, a mechanism by which chemicals of concern in the environmental media can result in exposure to a receptor, and an actual or potential receptor is identified under current or reasonably anticipated future land use conditions. The specific concentration of chemicals of concern in an environmental media shall not be considered in determining whether an exposure pathway is complete.

(B) At a minimum, owners and operators shall evaluate the following exposure pathways for human exposure for inclusion in the exposure model for the site:

1. Surficial soil. Exposure pathways applicable to surficial soil shall include, at a minimum—

A. Ingestion of soil, dermal contact with soil, and outdoor inhalation of vapors and particulates from surficial soils;

B. Indoor inhalation of vapor emissions from surficial soil;

C. Leaching of chemicals of concern from soil to groundwater and domestic use of groundwater;

D. Leaching of chemicals of concern from soil to groundwater followed by migration of vapors from groundwater to indoor air; and

E. Leaching of chemicals of concern from soil to groundwater and subsequent migration to a surface water body;

2. Subsurface soil. Exposure pathways applicable to subsurface soil shall include, at a minimum—

A. Indoor inhalation of vapor emissions from subsurface soil;

B. Leaching of chemicals of concern from soil to groundwater and domestic use of groundwater;

C. Leaching of chemicals of concern from soil to groundwater followed by migration of vapors from groundwater to indoor air; and

D. Leaching of chemicals of concern from soil to groundwater and subsequent migration to a surface water body;

3. Groundwater. Exposure pathways applicable to groundwater shall include, at a minimum—

A. Indoor inhalation of vapor emissions from groundwater;

B. Ingestion of water, dermal contact with water, and inhalation of vapors from water if the domestic use of groundwater pathway is complete; and

C. Migration to a surface water body and potential impacts to surface waters;

4. The following pathways shall be evaluated up to the depth of construction for the construction worker receptor:

A. Ingestion, dermal contact with, and inhalation of vapor emissions and particulates from soil from the surface up to the depth of construction;

B. Outdoor inhalation of vapor emissions from groundwater;

C. Outdoor inhalation of vapor emissions from light non-aqueous phase liquid;

D. Dermal contact with groundwater, if the depth to groundwater is or will be less than the depth of construction; and

E. Direct contact with light non-aqueous phase liquid constitutes an acute hazard and shall be evaluated qualitatively based on the depth of the light non-aqueous phase liquid and depth of construction;

5. Surface water and sediment. Exposure pathways applicable to surface water and sediment shall include, at a minimum—

A. Ingestion of surface water;

B. Contact with surface water during recreational activities (ingestion, inhalation of vapors, and dermal contact);

C. Contact with sediments (ingestion and dermal contact); and

D. Ingestion of fish or other aquatic organisms that have accumulated chemicals of concern as a result of surface water or sediment contamination; and

6. Other pathways that may need to be considered if relevant to the site include, but are not necessarily limited to, the following:

- A. Ingestion of produce grown in impacted soils;
- B. Use of groundwater for irrigation purposes; and
- C. Use of groundwater for industrial purposes.

(C) Groundwater Use Pathway. Owners and operators shall identify the point of exposure for domestic groundwater use. The point of exposure shall be an existing well or hypothetical well at the nearest down-gradient location that could reasonably be considered for installation of a water supply well regardless of the presence of chemicals of concern. The point of exposure might be on the site itself.

1. The current groundwater domestic use pathway shall be considered complete if existing wells or the groundwater zones they intersect are or may be affected by chemicals of concern associated with the site.

2. For each groundwater zone, the future groundwater use pathway shall be considered complete unless one (1) or more of the following conditions are met:

A. An ordinance is in place that prohibits water well drilling on and near the site and the ordinance is the subject of a Memorandum of Agreement between the department and the governing body that issued the ordinance, or some other activity and use limitation is in place, as determined by the department, that prohibits the installation of water wells on and near the site;

B. The groundwater zone is not suitable for use as determined in compliance with paragraph (10)(B)2. of this rule and the groundwater zone is not the only viable source of future water supply as determined in accordance with paragraph (10)(B)3. of this rule;

C. Future use of the groundwater is not reasonably probable as determined in accordance with paragraph (10)(B)4. of this rule; or

D. The department determines there is no reasonable probability that the groundwater zone is or could be affected by chemicals of concern associated with the site.

(D) Exposure Domain. Owners and operators shall determine the exposure domain for each complete exposure pathway. Owners and operators shall use concentrations of chemicals of concern measured from sample points within each exposure domain to determine the maximum and representative concentrations for each complete exposure pathway.

(17) Ecological Screening Assessment. Owners and operators shall use the conceptual site model and the qualitative screening assessment described below to identify whether any ecological receptors or habitats exist at or near the site and evaluate actual and potential exposure.

(A) Owners and operators must qualitatively assess, to the satisfaction of the department, the existence of ecological receptors on and near the site and whether any actual or potential exposure pathways to such receptors are or will be complete. Owners and operators may use checklists developed by the department for this purpose.

(B) If the qualitative assessment conducted at subsection (17)(A) of this rule determines that ecological receptors exist on or near the site and actual or potential exposure pathways to such receptors are or will be complete, owners and operators shall conduct a level two or three ecological risk assessment in accordance with section 10 CSR 26-2.078(5) to determine whether contamination at the site poses an unacceptable risk to ecological receptors.

(18) Determination of Applicable Target Levels. Owners and operators shall determine applicable target levels for chemicals of concern in environmental media for all exposure pathways identified as complete in the exposure model for the site. Applicable target levels shall be determined for each complete exposure pathway using the process in 10 CSR 26-2.077.

(A) Determination of applicable target levels shall be consistent

with the risk assessment tier being applied under 10 CSR 26-2.078 and may include—

- 1. Default target levels;
- 2. Tier 1 risk-based target levels;
- 3. Tier 2 site-specific target levels; or
- 4. Tier 3 site-specific target levels.

(B) Groundwater Use. Applicable target levels for groundwater use shall be the United States Environmental Protection Agency maximum contaminant level if one exists for a chemical of concern or a tier 1 risk-based target level or tier 2 or tier 3 site-specific target level if a maximum contaminant level is not available.

1. The owner and operator shall identify one (1) or more point of demonstration wells located between the source and the point of exposure identified in subsection (16)(C) of this rule unless the point of exposure is located within the groundwater solute plume at the site. Tier 1 risk-based target levels or tier 2 or tier 3 site-specific target levels shall be developed and used or applicable maximum contaminant levels shall be used as target levels for the point of demonstration wells to protect against applicable target levels being exceeded at the point of exposure.

(C) Surface Water. Target levels for surface water shall be water quality criteria based on the classification and beneficial use designations of the surface water body in accordance with 10 CSR 20-7.031. If water quality criteria do not exist for a chemical of concern, an applicable target level shall be developed using methodology approved by the department.

(D) Sediment. Owners and operators shall compare sediment sample data with sediment criteria available from literature that are protective of human health and ecological receptors or develop tier 2 site-specific target levels. Sediment contamination shall be delineated based on the criteria determined to be applicable. When developed, tier 2 site-specific target levels must be developed using methodology approved by the department.

(19) Application of Applicable Target Levels. Owners and operators shall compare applicable target levels to measured concentrations of chemicals of concern from samples of environmental media at the site. The concentration used for comparison to applicable target levels shall be a representative concentration or the maximum concentration appropriate for the complete exposure pathway based on the exposure domain.

(A) For surficial soil in a residential setting, owners and operators shall compare applicable target levels to the maximum concentration within the exposure domain.

(B) Representative Concentrations. Owners and operators shall determine, subject to department approval, the representative concentration of each chemical of concern in an environmental media appropriate for each complete exposure pathway at the site, unless the maximum concentration does not exceed the applicable target level for the exposure pathway. The representative concentration for an exposure pathway shall be the concentration of a chemical of concern in an environmental media that reflects an average exposure concentration for a receptor in the exposure domain over the duration of exposure. The representative concentration for an exposure pathway shall be determined using a methodology established by the department or other appropriate method approved by the department.

(20) Evaluation of Light Non-Aqueous Phase Liquid (LNAPL). At sites where LNAPL is present, owners and operators shall determine concentrations for chemicals of concern associated with the LNAPL using values for the effective solubility and vapor pressure or another method approved by the department. The equilibrium dissolved and vapor-phase concentrations for chemicals of concern in LNAPL shall be used to evaluate the risks posed by the LNAPL and to develop representative concentrations for use in the risk assessment.

(A) For tier 1 and tier 2 risk assessments, the default composition values for petroleum product or products determined by the department may be used to calculate dissolved and vapor phase concentrations associated with LNAPL at a site.

(B) For a tier 3 risk assessment, owners and operators may determine LNAPL physical properties and composition using analytical methods approved by the department. The equilibrium dissolved and vapor-phase concentrations for chemicals of concern shall be determined based on the mole fraction of each chemical of concern in the LNAPL.

(21) Nuisance Conditions. Owners and operators shall document and report to the department any nuisance conditions that exist at a site including, but not limited to, objectionable taste or odor in groundwater, aesthetic problems with discharging groundwater, and odor from soils remaining in place.

Table 1. Chemicals of concern associated with petroleum release types.

Chemical of Concern	Gasoline	Diesel/ Light Fuel Oils	Jet Fuel	Kerosene	Heavy Fuel Oils	Waste/ Used Oil
VOLATILES						
Benzene	X	X	X	X	NC	X
Toluene	X	X	X	X	NC	X
Ethylbenzene	X	X	X	X	NC	X
Xylenes (total)	X	X	X	X	NC	X
1,2-Dibromoethane / Ethylene dibromide (EDB)	X ¹	NC	NC	NC	NC	NC
1,2-Dichloroethane / Ethylene dichloride (EDC)	X ¹	NC	NC	NC	NC	NC
OXYGENATES						
Methyl- <i>tert</i> -butyl-ether (MTBE)	X	NC	NC	NC	NC	NC
Tertiary amyl methyl ether (TAME)	X	NC	NC	NC	NC	NC
Tertiary butyl alcohol (TBA)	X	NC	NC	NC	NC	NC
Ethyl- <i>tert</i> -butyl-ether (ETBE)	X	NC	NC	NC	NC	NC
Diisopropyl ether (DIPE)	X	NC	NC	NC	NC	NC
Ethanol	X	NC	NC	NC	NC	NC
Methanol	X	NC	NC	NC	NC	NC
TPH						
TPH-GRO	X	NC	NC	NC	NC	X
TPH-DRO	NC	X	X	X	X	X
TPH-ORO	NC	NC	X	X	X	X

PAHs²						
Acenaphthene	NC	X	X	X	X	X
Anthracene	NC	X	X	X	X	X
Benz(<i>a</i>)anthracene	NC	X	X	X	X	X
Benzo(<i>a</i>)pyrene	NC	X	X	X	X	X
Benzo(<i>b</i>)fluoranthene	NC	X	X	X	X	X
Benzo(<i>k</i>)fluoranthene	NC	X	X	X	X	X
Chrysene	NC	X	X	X	X	X
Dibenz(<i>a,h</i>)anthracene	NC	X	X	X	X	X
Fluoranthene	NC	X	X	X	X	X
Fluorene	NC	X	X	X	X	X
Naphthalene	X	X	X	X	X	X
Pyrene	NC	X	X	X	X	X
METALS						
Arsenic	NC	NC	NC	NC	NC	X
Barium	NC	NC	NC	NC	NC	X
Cadmium	NC	NC	NC	NC	NC	X
Chromium	NC	NC	NC	NC	NC	X
Lead	X ¹	NC	NC	NC	NC	X
Selenium	NC	NC	NC	NC	NC	X

Notes:

X = Chemical of concern

NC = Not a chemical of concern

TPH = Total petroleum hydrocarbons

GRO = Gasoline range organics

DRO = Diesel range organics

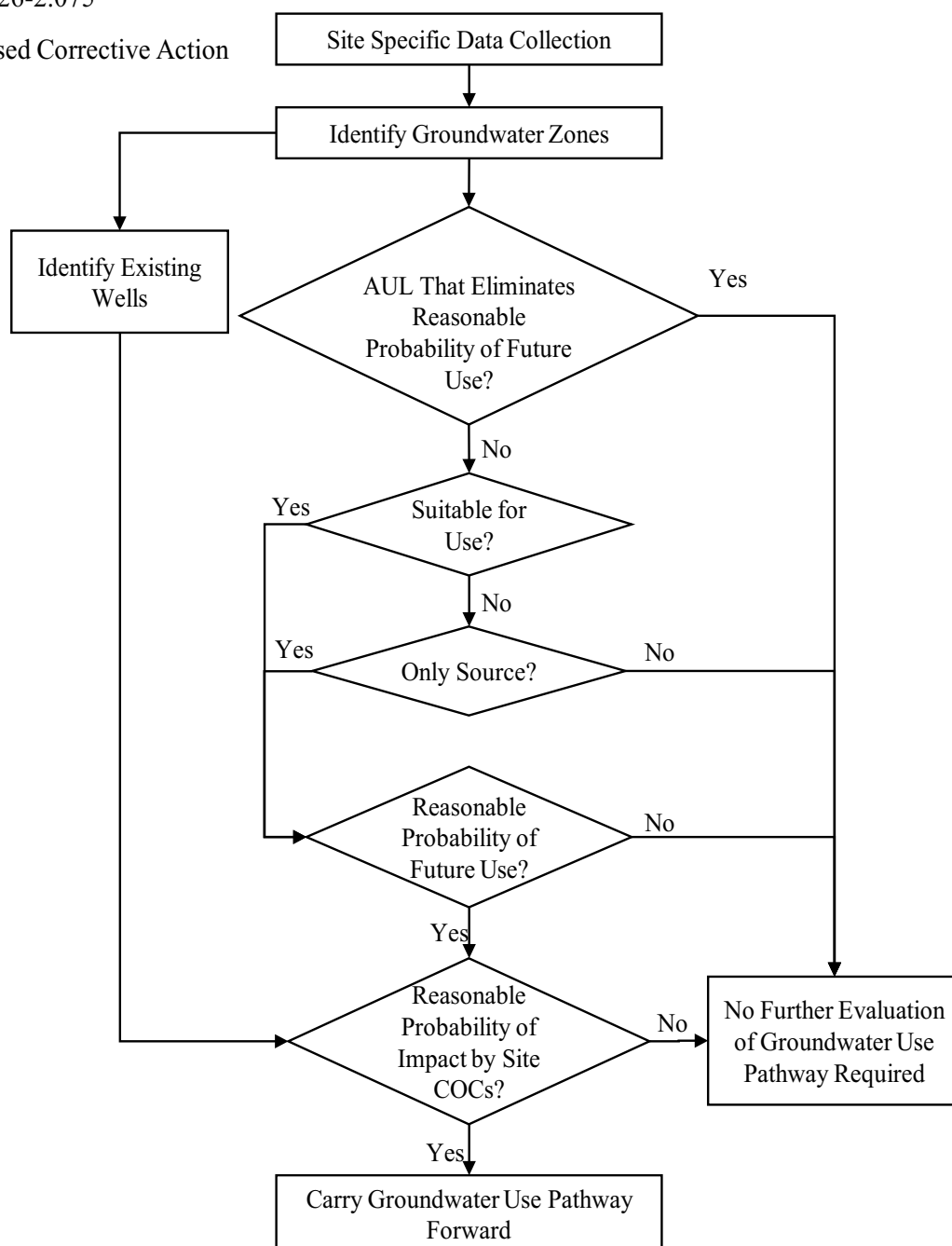
ORO = Oil range organics

PAHs = Polycyclic aromatic hydrocarbons

¹ Chemical of concern for leaded gasoline

² Chemicals of concern when TPH-DRO or TPH-ORO are detected in soil or groundwater at a concentration at or above the required reporting limits

10 CSR 26-2.075

Risk-Based Corrective Action
Process**NOTE:**

1. In this chart, “use” refers to domestic consumption.
2. The analysis embodied in the chart is performed for each groundwater zone of interest. The conclusion of the analysis (the groundwater use pathway is either carried forward for additional consideration, or no further evaluation of the pathway is required) applies to the individual groundwater zone under analysis. Different conclusions may apply to different groundwater zones at a given site.
3. The attributes of an AUL must be sufficient to “eliminate reasonable probability of future use,” and, by that, allow a conclusion that “no further evaluation of groundwater use pathway required.”

Figure 1. Site Conceptual Model for Domestic Consumption of Groundwater Exposure Pathway Analysis

AUTHORITY: sections 319.109 and 319.137, RSMo Supp. 2008. Material in this rule originally filed as 10 CSR 20-10.068. Original rule filed Feb. 13, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions \$6,019,200 in the aggregate and nine hundred nineteen thousand, eight hundred eighty-six dollars (\$919,886) annually.

PRIVATE COST: This proposed rule will cost private entities three hundred ninety-three thousand four hundred eight dollars (\$393,408) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

FISCAL NOTE**PUBLIC COST****I. RULE NUMBER**

Rule Number and Name: 10 CSR 26-2.075 Risk-Based Corrective Action Process
Type of Rulemaking: Proposed rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	\$919,886 ¹ (annual cost)
Petroleum Storage Tank Insurance Fund	\$6,019,200 (aggregate cost)

III. Worksheet

See calculations in section IV below.

IV. Assumptions

Proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082 together present a process referred to as Risk-Based Corrective Action or RBCA. Structurally, the RBCA process can be broken down into the following general categories: Site characterization, development of risk-based target levels, risk assessment (or application of risk-based target levels), corrective action, public participation, long-term stewardship (which is related to corrective action and risk assessment), and determination that no further remedial action is required.

Proposed rule 10 CSR 26-2.075 provides an overview of the entire process, with requirements related to each of the general categories listed above addressed in the rule. The remaining proposed rules – 10 CSR 26-2.076 through 10 CSR 26-2.082 – more specifically address each specific general category. For instance, proposed rule 10 CSR 26-2.076 pertains solely to site characterization and proposed rule 10 CSR 26-2.077 pertains solely to development of risk-based target levels.

Because other rules more specifically address the requirements presented in proposed rule 10 CSR 26-2.075, the estimated costs of those requirements are presented in the fiscal notes for the specific rules rather than in this fiscal note.

¹ This is the total cost to operate the department's Hazardous Waste Program, Tanks Section, Remediation Unit. The Remediation Unit oversees the application of all Title 10, Division 26, Chapter 2 rules pertaining to releases from underground storage tanks, not just proposed rule 10 CSR 26-2.075.

The following explains the general requirements of proposed rule 10 CSR 26-2.075 and provides either a cost estimate related to the requirement or explains where the cost estimate related to the requirement is found.

- The proposed rule requires site characterization with chemicals of concern defined to the default target levels or less. Proposed rule 10 CSR 26-2.076 presents the same requirements. Therefore, cost estimates related to site characterization are found in the fiscal note for proposed rule 10 CSR 26-2.076.
- The proposed rule requires the development of a site conceptual model. This entails the collection of site characterization data described above plus evaluation of receptors, exposure pathways, contaminant transport, groundwater use, evaluation of utilities, and development of an exposure model. The following summarizes assumptions made regarding site conceptual model development (including exposure model development; the exposure model is a part of the conceptual site model):
 - Field work to evaluate land and groundwater use, identify receptors and pathways, and investigate contaminant transport mechanisms, including evaluation of utilities is related to the site characterization activities required by proposed rule 10 CSR 26-2.076. Therefore, related costs are estimated in the fiscal note for proposed rule 10 CSR 26-2.076 rather than in this fiscal note. The following cost estimate relates solely to the preparation of the site conceptual model report and not the collection of data necessary to develop the model and prepare the report.
 - Assume personnel cost of \$80 per hour
 - Assume 40 hours to prepare the site conceptual model, including incorporation of site characterization data and site conceptual model data (including development of exposure model):
 - 40 hours x \$80 = \$3,200
 - Total cost to develop site conceptual model: \$3,200
- The proposed rule requires a qualitative ecological screening investigation. Proposed rules 10 CSR 26-2.076 and 10 CSR 26-2.078 also require an assessment of risk to ecological receptors. The following pertains solely to the required initial screening assessment.
 - The following summarizes assumptions made to estimate the cost of an ecological screening investigation:
 - Field work, including qualitative observation of ecological features and receptors relative to known extent of contamination: 8 hours x \$80 = \$640
 - Report preparation to document ecological screening investigation: 8 x \$80 = \$640
 - Total cost of ecological screening investigation: \$640 + \$640 = \$1,280 per site
- The proposed rule requires underground storage tank owners and operators to determine target levels applicable to the site. Costs associated with such determinations are estimated in the fiscal note for proposed rule 10 CSR 26-2.077.

- The proposed rule requires the application of target levels as part of the risk assessment process. Related costs are estimated in the fiscal note for proposed rule 10 CSR 26-2.078.
- The proposed rule requires that applicable target levels be compared to representative concentrations as part of the risk assessment process. Related costs are estimated in the fiscal note for proposed rule 10 CSR 26-2.078.
- The proposed rule requires the determination of concentrations of chemicals of concern associated with light non-aqueous phase liquid (LNAPL). This is accomplished using data and methodology available in guidance. Additional field work is not required.
 - Assume 4 hours to make determination
 - Assume professional pay rate of \$80/hour
 - Total cost to determine contaminant concentrations in LNAPL: 4 hours x \$80 = \$320

Total per site cost to meet requirements of proposed rule:

- Site characterization: see fiscal note for proposed rule 10 CSR 26-2.076
- Development of Site Conceptual Model: \$3,200 per site
- Ecological screening investigation: \$1,280 per site
- Target level determination: see fiscal note for proposed rule 10 CSR 26-2.077
- Application of target levels: see fiscal note for proposed rule 10 CSR 26-2.078
- Development of representative concentrations: see fiscal note for proposed rule 10 CSR 26-2.078
- Comparison of target levels to representative concentrations: see fiscal note for proposed rule 10 CSR 26-2.078
- Determine contaminant concentrations in LNAPL = \$320
- Total per site cost to meet requirements of proposed rule 10 CSR 26-2.075:
 - $\$3,200 + \$1,280 + \$320 = \$4,800$ per site

Cost of proposed rule 10 CSR 26-2.075 to the Petroleum Storage Tank Insurance Fund (PSTIF)

The PSTIF is responsible for 1,254 underground storage tank release sites². Therefore, the aggregate cost to PSTIF to meet the requirements of proposed rule 10 CSR 26-2.075 is as follows:

- $\$4,800 \text{ per site} \times 1,254 \text{ sites} = \$6,019,200$

Cost of proposed rule to Department of Natural Resources

The Department of Natural Resources' Hazardous Waste Program, Tanks Section, Remediation Unit oversees the application of all Title 10, Division 26, Chapter 2 rules related to releases from underground storage tanks. The Remediation Unit includes two Environmental Specialist IV,

² December 15, 2008, State UST Fund Soundness Data Form, line 21, completed by Patrick Eriksen, Williams & Company, third party administrator of PSTIF

one Environmental Engineer I/II, and eight Environmental Specialist I/II/III. The following table summarizes the cost to operate the Remediation Unit. The costs are not solely associated with the Unit's administration of proposed rule 10 CSR 26-2.075; rather, it represents the cost to the department to administer all Division 26, Chapter 2 rules applicable to releases from regulated underground storage tanks.

<u>Position</u>	<u>Number</u>	<u>Bi-monthly Rate</u>	<u>Annual Rate</u>
Environmental Engineer II	1	\$1,966.00	\$47,184
Environmental Specialist III	8	\$1,666	\$319,801
Environmental Specialist IV (Unit Chief)	1	\$1,806.00	\$43,344
Environmental Specialist IV (Technical)	1	\$2,004.00	\$48,084
Subtotal:	11		\$458,413
Fringe (42.9%)			\$196,659
E & E ³			\$64,207
Subtotal			719,279
Indirect (27.89%)			\$200,607
Total Costs for One Year - Existing Funding			\$919,886

The estimated annual cost of the proposed rule to the department is \$919,886. Note, however, this cost is applicable to the department's oversight of all rules pertaining to releases from underground storage tanks regulated by Title 10, Division 26, Chapter 2 rules, not just this rule.

NOTE: Proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082 present a process referred to as Risk-Based Corrective Action or RBCA. Proposed rule 10 CSR 26-2.075 presents a general overview of that process. The remaining rules expand on specific requirements of the process. In some cases, requirements are found in more than one rule. Where that occurs, efforts have been made to avoid duplication of costs in the fiscal notes. However, some costs might be accounted for in more than one fiscal note. Also, a number of assumptions and estimations are necessary in producing these fiscal notes. For these reasons, adding up the cost of each fiscal note may not necessarily produce an accurate cost of the entire RBCA process presented in proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

³ \$5,837 per employee – DNR ongoing E & E standard FY2009

FISCAL NOTE**PRIVATE COST****I. RULE NUMBER**

Rule Number and Name: 10 CSR 26-2.075 Risk-Based Corrective Action Process
Type of Rulemaking: Proposed rule

II. SUMMARY OF FISCAL IMPACT

Classification by types of the business entities which would likely be affected:	Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
<ul style="list-style-type: none"> • Retail automotive fueling stations • Fleet operations • Automotive service and repair facilities • Manufacturing operations • Other owners and operators of underground storage tank systems 	>2,000 ¹	\$393,408 ²

III. Worksheet

See calculations in Section IV below.

¹ The Missouri Department of Natural Resources tanks database lists approximately 1,900 registered underground storage tank owners; the department assumes that several hundred additional owners exist who have not registered with the department.

² Approximately 94% of the total number of underground storage tank release sites are insured by the Petroleum Storage Tank Insurance Fund (PSTIF). Therefore, assuming PSTIF covers each insured party's full cost to comply with this rule, the aggregate private entity cost to comply with this rule is estimated as 6% of the total estimated cost of compliance of \$6,556,800. The remaining 94% of the cost of compliance will be borne by PSTIF, as explained in the public cost fiscal note for this rule.

IV. Assumptions

Proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082 together present a process referred to as Risk-Based Corrective Action or RBCA. Structurally, the RBCA process can be broken down into the following general categories: Site characterization, development of risk-based target levels, risk assessment (or application of risk-based target levels), corrective action, public participation, long-term stewardship (which is related to corrective action and risk assessment), and determination that no further remedial action is required.

Proposed rule 10 CSR 26-2.075 provides an overview of the entire process, with requirements related to each of the general categories listed above addressed in the rule. The remaining proposed rules – 10 CSR 26-2.076 through 10 CSR 26-2.082 – more specifically address each specific general category. For instance, proposed rule 10 CSR 26-2.076 pertains solely to site characterization and proposed rule 10 CSR 26-2.077 pertains solely to development of risk-based target levels.

Because other rules more specifically address the requirements presented in proposed rule 10 CSR 26-2.075, the estimated costs of those requirements are presented in the fiscal notes for the specific rules rather than in this fiscal note.

The following explains the general requirements of proposed rule 10 CSR 26-2.075 and provides either a cost estimate related to the requirement or explains where the cost estimate related to the requirement is found.

- The proposed rule requires site characterization with chemicals of concern defined to the default target levels or less. Proposed rule 10 CSR 26-2.076 presents the same requirements. Therefore, cost estimates related to site characterization are found in the fiscal note for proposed rule 10 CSR 26-2.076.
- The proposed rule requires the development of a site conceptual model. This entails the collection of site characterization data described above plus evaluation of receptors, exposure pathways, contaminant transport, groundwater use, evaluation of utilities, and development of an exposure model. The following summarizes assumptions made regarding site conceptual model development (including exposure model development; the exposure model is a part of the conceptual site model):
 - Field work to evaluate land and groundwater use, identify receptors and pathways, and investigate contaminant transport mechanisms, including evaluation of utilities is related to the site characterization activities required by proposed rule 10 CSR 26-2.076. Therefore, related costs are estimated in the fiscal note for proposed rule 10 CSR 26-2.076 rather than in this fiscal note. The following cost estimate relates solely to the preparation of the site conceptual model report and not the collection of data necessary to develop the model and prepare the report.

- Assume personnel cost of \$80 per hour
 - Assume 40 hours to prepare the site conceptual model, including incorporation of site characterization data and site conceptual model data (including development of exposure model):
 - $40 \text{ hours} \times \$80 = \$3,200$
- Total cost to develop site conceptual model: \$3,200
- The proposed rule requires a qualitative ecological screening investigation. Proposed rules 10 CSR 26-2.076 and 10 CSR 26-2.078 also require an assessment of risk to ecological receptors. The following pertains solely to the required initial screening assessment.
 - The following summarizes assumptions made to estimate the cost of an ecological screening investigation:
 - Field work, including qualitative observation of ecological features and receptors relative to known extent of contamination: $8 \text{ hours} \times \$80 = \640
 - Report preparation to document ecological screening investigation: $8 \times \$80 = \640
 - Total cost of ecological screening investigation: $\$640 + \$640 = \$1,280$ per site
- The proposed rule requires underground storage tank owners and operators to determine target levels applicable to the site. Costs associated with such determinations are estimated in the fiscal note for proposed rule 10 CSR 26-2.077.
- The proposed rule requires the application of target levels as part of the risk assessment process. Related costs are estimated in the fiscal note for proposed rule 10 CSR 26-2.078.
- The proposed rule requires that applicable target levels be compared to representative concentrations as part of the risk assessment process. Related costs are estimated in the fiscal note for proposed rule 10 CSR 26-2.078.
- The proposed rule requires the determination of concentrations of chemicals of concern associated with light non-aqueous phase liquid (LNAPL). This is accomplished using data and methodology available in guidance. Additional field work is not required.
 - Assume 4 hours to make determination
 - Assume professional pay rate of \$80/hour
 - Total cost to determine contaminant concentrations in LNAPL:
 $4 \text{ hours} \times \$80 = \320

Total per site cost to meet requirements of proposed rule:

- Site characterization: see fiscal note for proposed rule 10 CSR 26-2.076
- Development of Site Conceptual Model: \$3,200 per site
- Ecological screening investigation: \$1,280 per site
- Target level determination: see fiscal note for proposed rule 10 CSR 26-2.077
- Application of target levels: see fiscal note for proposed rule 10 CSR 26-2.078
- Development of representative concentrations: see fiscal note for proposed rule 10 CSR 26-2.078
- Comparison of target levels to representative concentrations: see fiscal note for proposed rule 10 CSR 26-2.078
- Determine contaminant concentrations in LNAPL = \$320
- Total per site cost to meet requirements of proposed rule 10 CSR 26-2.075:
 - $\$3,200 + \$1,280 + \$320 = \$4,800$ per site

Total aggregate private entity cost to meet the requirements of proposed rule 10 CSR 26-2.075:

- $1,366 \text{ sites}^3 \times \$4,800 = \$6,556,800$

However, approximately 94% of underground storage tank sites are insured by the Petroleum Storage Tank Insurance Fund (PSTIF). Therefore, assuming PSTIF covers each insured party's full cost to comply with this rule, the aggregate private entity cost to comply with this rule is estimated as 6% of the total estimated cost of compliance. The remaining 94% of the cost of compliance will be borne by PSTIF, as explained in the public cost fiscal note for this rule.

Total aggregate private entity cost to meet the requirements of proposed rule 10 CSR 26-2.075 in consideration of 94% of sites being insured by PSTIF:

- $\$6,556,800 \times 0.06 = \$393,408$

NOTE: Proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082 present a process referred to as Risk-Based Corrective Action or RBCA. Proposed rule 10 CSR 26-2.075 presents a general overview of that process. The remaining rules expand on specific requirements of the process. In some cases, requirements are found in more than one rule. Where that occurs, efforts have been made to avoid duplication of costs in the fiscal notes. However, some costs might be accounted for in more than one fiscal note. Also, a number of assumptions and estimations are necessary in producing these fiscal notes. For these reasons, adding up the cost of each fiscal note may not necessarily produce an accurate cost of the entire RBCA process presented in proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

³ Missouri Department of Natural Resources Tanks Database indicates 1,366 active release sites as of February 24, 2009. Approximately 94% of the sites are insured by the Petroleum Storage Tank Insurance Fund.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 26—Petroleum and Hazardous Substance
Storage Tanks
Chapter 2—Underground Storage Tanks—Technical
Regulations

PROPOSED RULE

10 CSR 26-2.076 Site Characterization and Data Requirements

PURPOSE: This rule presents requirements for conducting site investigations to characterize contamination resulting from releases from petroleum storage tank systems.

(1) Owners and operators shall perform site characterization to obtain data and information for a site in order to assess risks posed by the release and to support corrective action in accordance with this rule. Prior to initiating site characterization, owners and operators shall develop a detailed technical work plan that shall be submitted to the department for review and approval.

(2) Reserved.

(3) To adequately characterize a site to determine and assess risks, owners and operators shall collect relevant data and information for the following categories. This information shall be included in the site characterization report. If any categories of data are not included, the site characterization report shall document the reason(s) for the omission.

- (A) Chronology of site events.
- (B) Description and magnitude of the release.
- (C) General site information and physical setting.
- (D) Existing activity and use limitations.
- (E) Current and future land use and receptor information.
- (F) Analysis of current and reasonably anticipated future groundwater use.
- (G) Vadose zone soil characteristics including determination of soil type.
- (H) Characteristics of saturated zones.
- (I) Surface water body characteristics.
- (J) Distribution of chemicals of concern in soil.
- (K) Distribution of chemicals of concern in bedrock.
- (L) Distribution of chemicals of concern in groundwater.
- (M) Distribution and characteristics of light non-aqueous phase liquid (LNAPL).
- (N) Information about corrective action measures or risk management activities that have been conducted and are planned.

(4) Additional data and information necessary to develop a corrective action plan, design a remediation system, or complete a risk assessment may be required at a site and shall be determined by the department on a site-specific basis.

(5) Chronology of Site Events. Owners and operators shall compile a comprehensive chronology of events regarding the release, release response activities, site investigations, monitoring events, system removal activities, and remediation activities that may have occurred at the site in order to develop a clear understanding of historic site activities influencing site conditions and current and potential future risk. The chronology specifically shall include information regarding the following events as appropriate:

- (A) Tank installations, removals, and upgrades, including dates for each;
- (B) Amounts of any contaminated soil that has been excavated, how the excavated soil was managed, and when the excavations occurred;
- (C) Monitoring well drilling, sampling, and gauging;
- (D) As applicable, the date or dates on which LNAPL was discovered

covered and the location or locations at which it was discovered;

(E) Soil sample collection and analysis, including when and where samples were collected and how and when they were analyzed; and

(F) Interim corrective actions or remedial activities, including purpose, scope, and dates of all such activities.

(6) Nature, Magnitude, and Location of Release. Owners and operators shall collect as much of the following information as is available for each release that has occurred at the source property:

(A) Based on the chronology, owners and operators shall review the operational history of the source property to determine the location, date, and magnitude of any and all releases that may have occurred at the site.

1. At sites where the date of the release(s) is not known with certainty, the date of each release shall be assumed to have been prior to 1980 and therefore involving leaded gasoline, unless site information demonstrates otherwise.

2. At sites where the exact location of the release(s) is not known with certainty, the likely location and extent of each release in soil and groundwater shall be determined from soil and groundwater sampling, field screening, and visual observations;

(B) Owners and operators shall determine or estimate the magnitude of the release(s) based on available information, such as inventory records or other operational information, where possible; and

(C) Owners and operators shall identify the type or types of petroleum released at the site where possible.

(7) Chemicals of Concern. Soil and groundwater samples from a site shall be analyzed for the chemicals of concern indicated in 10 CSR 26-2.075 Table 1 based on knowledge of the type or types of petroleum released at the site. Soil and groundwater samples shall be analyzed for chemicals of concern using analytical methods specified by the department or alternative analytical methods approved by the department.

(A) If the release can be identified as consisting of one (1) or more specific types of petroleum based on release reports, product analysis, or location of impacts, only the chemicals of concern for that type of petroleum need be included in the initial laboratory analysis. If the type of petroleum cannot be conclusively identified based on these methods, chemicals of concern corresponding to all types of petroleum known or suspected to have been stored at the property where the release occurred shall be included in the initial analysis. The chemicals of concern for the site may be identified based on the initial laboratory results and the list of analytes for which samples are analyzed in subsequent sampling rounds may be modified accordingly with approval of the department.

(B) For releases other than gasoline or where the type of petroleum is not known, samples with detectable levels of total petroleum hydrocarbon-diesel range organics or total petroleum hydrocarbon-oil range organics shall also be analyzed for the polycyclic aromatic hydrocarbons listed in 10 CSR 26-2.075 Table 1.

1. Unless otherwise directed by the department, owners and operators shall analyze surface and subsurface soil and groundwater samples for the polycyclic aromatic hydrocarbons other than naphthalene from a minimum of twenty-five percent (25%), and not less than two (2), of samples from each media and each soil zone that contain the highest concentrations of total petroleum hydrocarbon-diesel range organics or total petroleum hydrocarbon-oil range organics.

(C) Ethanol and Methanol. Groundwater samples need only be analyzed for ethanol and methanol when the domestic groundwater use pathway is complete and there is a reasonable probability that petroleum containing ethanol or methanol was released. Soil samples need not be analyzed for ethanol and methanol.

(D) If laboratory analytical data from previously collected samples do not include all suspected chemicals of concern at a site, the department may require additional sampling to evaluate the chemicals of concern that were not included.

(8) General Site Information. Owners and operators shall collect and evaluate available information relevant to the site, including but not necessarily limited to, location information, ground surface conditions, location(s) of utilities on and adjacent to the site, soil types and geologic setting, regional hydrogeology and aquifer characteristics, surface water characteristics, and groundwater use at all properties within the site. Owners and operators shall also prepare site maps. This information shall be included in the site characterization report.

(A) Site Maps. Owners and operators shall prepare a site area map and a detailed site map. The maps shall be made to scale, with a bar scale and a north arrow.

1. The site area map shall be prepared using United States geological survey seven and one-half (7.5) minute topographic maps as a base. The site location should be centered on the topographic map with the site's location clearly marked. Contour lines and all other features on the topographic map shall be legible upon delivery to the department.

2. The detailed map of the site shall be prepared to legibly depict site features and all boundaries of properties within the site. Multiple maps showing these features may be prepared, as appropriate. The site map shall show the layout of past and current source property features including, but not limited to, underground storage tanks, above ground storage tanks, piping, dispenser islands, sumps, paved and unpaved areas, utilities (above and below ground), canopies, and buildings. At a minimum, the map shall show the locations of the following:

- A. Source property monitoring wells, including those that have been abandoned, lost, or destroyed;
- B. Public and private water wells on and near the site;
- C. Above and below ground utilities;
- D. Soil borings;
- E. Any soil vapor extraction wells and other remediation system components and features;
- F. Soil excavation areas; and
- G. The point and area of release.

(B) Ground Surface Conditions. Owners and operators shall evaluate ground surface conditions at the site, including general topography, direction in which the surface is sloping, and relevant topographic site features related to surface drainage. The portion of each property within the site that is paved, unpaved, or landscaped shall be determined. The type, extent, and general condition of the pavement shall be described and for unpaved or landscaped areas, the nature and condition of the surface shall be described.

(C) Location of Utilities. Owners and operators shall identify and locate underground utility lines and conduits on and near the site including, but not limited to, phone lines, water lines, sanitary sewers, storm sewers, and natural gas lines. Owners and operators shall prepare a thorough assessment of the potential for preferential flow of LNAPL, impacted groundwater, and vapors through any utility trenches or conduits. If water lines are present, owners and operators shall determine the materials of construction of the main lines and service lines and the joints and gaskets of both.

(D) Regional Hydrogeology and Aquifer Characteristics. Owners and operators shall review available information and compile new information to determine regional hydrogeology, soil types, and aquifer characteristics. This information shall be used to determine the type and depth of aquifers in the area, whether the aquifers are confined, semi-confined, or unconfined, and obtain general aquifer characteristics, including yield and total dissolved solids.

(E) Seeps, Springs, Surface Water, and Karst Features. Owners and operators shall identify seeps, springs, karst features, and all surface water bodies within five hundred feet (500') of the outer edge of the area of release (at which concentrations of chemicals of concern return to background or non-detect levels), unless a different distance is required by the department based on site conditions. In karst areas, the department may require that the minimum search area radius be increased. The seeps, springs, karst features, and all surface water bodies identified at a site shall be identified on the site area map and,

if appropriate, included on the detailed site map.

1. If a surface water body is identified and investigations determine that it may be or is impacted by contamination arising at the site, owners and operators shall collect information regarding the type, flow rate, flow direction, depth, width, and use of the surface water body.

(F) Groundwater Use. Owners and operators shall identify any existing wells located on or near the site and determine whether a water well is or was located on the source property in accordance with subsection (9)(C) of this rule.

1. If an existing or former water well is identified on the source property, well construction details shall be obtained to the extent such are available. At a minimum, the total depth of the well, casing and screen intervals, materials of construction, and past and current use shall be determined.

2. For all wells identified on or near the site, the total depth of each well, casing and screen (if present) intervals, materials of construction, and past and current use shall be determined.

3. If a well is identified on the source property that is not currently used or likely to be used in the future, it shall be abandoned in accordance with department requirements, unless it is to be used as part of site characterization or corrective action activities at the site.

(9) Land Use and Receptors. Owners and operators shall conduct a land use and receptor survey covering a radius of five hundred feet (500') from the outer perimeter of the area of release, unless a different distance is required by the department based on site conditions. The results of the land use and receptor survey shall be used to identify location(s) and type(s) of receptors, routes of exposure, and the presence of any activity and use limitations pertaining to one (1) or more properties within the site.

(A) Current Land Use. Owners and operators shall conduct a visual inspection survey to unambiguously describe current land use of properties within the site. The survey shall clearly identify the use characteristics of each property, such as, but not necessarily limited to, schools, hospitals, apartments, single-family homes, buildings with basements, day care centers, churches, nursing homes, and types of businesses. The survey shall also identify ecological and sensitive areas such as surface water bodies, parks, recreational areas, wildlife sanctuaries, wetlands, karst features, and agricultural areas.

1. The results of the survey shall be accurately documented on a land use map drawn to scale or approximate scale with a north arrow and the use and boundaries of each parcel shall be identified.

(B) Future Land Use. Owners and operators shall evaluate potential future land use for properties by obtaining such information as is practically available, including local ordinances and restrictions that affect land use or the presence of any other activity and use limitations pertaining to one (1) or more properties.

1. The department will make final decisions with respect to the reasonably anticipated future land use of all properties within a site in accordance with subsection 10 CSR 26-2.075(9)(A). When future land use cannot be reasonably predicted, the department will consider future land use to be residential.

(C) Water Well Survey. Owners and operators shall conduct a water well survey to locate all public water supply wells within an approximately one (1) mile radius of the outside edge of the area of release (at which concentrations of chemicals of concern return to background or non-detect levels) and all private water wells within an approximately quarter (0.25) mile radius of the outside edge of the area of release, unless a different distance is required by the department based on site conditions. Wells within the area of release shall also be identified. In areas where private wells are likely to be present, the department may require that owners and operators conduct a door-to-door survey of businesses and residences. Wells within the survey boundaries shall be evaluated to determine well characteristics including age, depth to water and total well depth, water use,

screen interval, construction, depth of casing, and mode of operation.

(D) Ecological Receptors and Habitats. Owners and operators shall use the screening process in section 10 CSR 26-2.075(17) to evaluate the presence of ecological receptors or habitats that require characterization. If the screening process indicates the presence of one (1) or more ecological receptors or habitats, owners and operators shall proceed in accordance with section 10 CSR 26-2.078(5).

(10) Vadose Zone Characterization. Owners and operators shall characterize soil and other geological media in the vadose zone to determine the thickness of the vadose zone and depth to groundwater, the nature and distribution of soil types and soil horizons, and relevant characteristics of soils and other geological media.

(A) Soil borings and probes shall be advanced to the water table or, if groundwater is not encountered and contamination is not observed, to a depth of not less than twenty feet (20') below ground surface, unless refusal is encountered at a shallower depth.

1. Unless a permanent monitoring well is installed, all boreholes and probes greater than ten feet (10') in depth shall be abandoned in accordance with section 10 CSR 23-4.080(6). Boreholes and probes less than ten feet (10') in depth shall be plugged by returning uncontaminated native material into the hole from which it was removed or by grouting.

(B) Soil borings and probes shall be continuously sampled and logged in accordance with methods approved by the department.

(C) The depth to groundwater shall be determined from boring logs and water levels in monitoring wells at the site. The vertical range of water table fluctuations shall be determined, and available water level data shall be evaluated to determine whether the water level variations are seasonal or represent a consistent upward or downward regional trend.

1. At sites with seasonal water table fluctuations, the average depth to groundwater and the average thickness of the vadose zone will be used as determined by soil chemical of concern distribution data and water level measurements obtained on at least a quarterly basis over at least one (1) year. Other information may be used to supplement the distribution and measurement data.

2. At sites with a consistent upward or downward water level trend, the most recent data shall be used to estimate the depth to groundwater.

(11) Vadose Zone Soil Type Determination. Owners and operators shall determine a vadose zone soil type or types for the site that is or are representative of and applicable to the entire horizontal and vertical extent of vadose zone soils at the site for use in the tier 1 risk assessment. The number and distribution of soil samples used in the determination shall be sufficient, subject to approval by the department, to account for soil heterogeneity to ensure that all relevant soil types at a site are accurately identified.

(A) Sampling Locations for Soil Type Determination. Soil borings or probes shall be advanced to a depth at least ten feet (10') below the vertical extent of soil contamination or, if groundwater contamination is present, to the top of the saturated zone. Sampling locations may be outside the area of petroleum contamination if the soil types at the sampling locations are representative of the area of contamination. Each boring or probe shall be comprehensively logged at intervals sufficient to identify all soil horizons, and a soil sample shall be collected from each horizon identified for identification of soil type. The department may require the advancement of borings or probes into the saturated zone to ensure accurate identification of all soil types at a given site.

(B) The soil type(s) for soil samples collected from the site shall be identified by grain size analysis conducted using methods approved by the department. The results shall be plotted on the United States Department of Agriculture soil textural classification chart.

(C) The vadose zone soil type(s) shall be determined based on the

following groups of United States Department of Agriculture soil textural classes:

1. Type one. Type one soils consist of sandy soils and include sand, sandy loam, and loamy sand.

2. Type two. Type two soils consist of silty soils and include silt, loam, silt loam, silty clay loam, sandy clay loam, and clay loam.

3. Type three. Type three soils consist of clayey soils and include clay, silty clay, and sandy clay.

(D) At sites where more than one (1) soil type exists in approximately the same amounts, the most conservative of the soil type groups shall be used in the tier 1 risk assessment. For this purpose, soil type one shall be the most conservative, and soil type three shall be the least conservative.

(E) At sites where vadose zone soil cannot be accurately assigned to one (1) or more of the soil type groups, or where the department determines that the vadose zone is comprised of significant volumes of non-soil fill materials (e.g., sand, gravel, rock, concrete, bricks, metal, asphalt, etc.), soil type one shall be used in the tier 1 risk assessment. However, if the department determines that soil type one is not representative of the vadose zone at the site, the department may direct owners and operators to evaluate soil properties site-specifically under tier 2 in accordance with section 10 CSR 26-2.077(10) and subsection 10 CSR 26-2.078(3)(B).

(F) Previously Characterized Sites. For sites where site characterization activities were complete prior to March 1, 2005, owners and operators may determine the vadose zone soil type(s) using existing site characterization data without grain size analyses, provided that the existing site characterization data is sufficient to allow owners and operators to accurately determine soil type. The department may determine that the existing site characterization data is not adequate to support the determination and require additional soil type characterization, including the collection of soil samples for grain size analysis.

(G) Owners and operators shall submit a report that documents the vadose zone soil type determination for approval by the department. The report may be submitted independently, as an appendix or attachment to the site characterization report, or as an appendix or attachment to the tier 1 or tier 2 risk assessment report as appropriate.

(12) Vadose Zone Soil Characteristics. Owners and operators may determine site-specific values for soil properties including, but not limited to, dry bulk density, porosity, volumetric water content, and fractional organic carbon content, and use these values in a tier 2 or tier 3 risk assessment.

(A) Owners and operators shall determine site-specific values for soil properties based on data collected at the site. Samples and data for soil properties shall be obtained using field procedures, sampling protocols, and laboratory methods specified by the department or alternative procedures, protocols, or methods approved by the department.

(B) Owners and operators shall collect samples from the site from sufficient locations and in sufficient number, subject to approval by the department, to adequately account for soil heterogeneity, and sample locations shall be distributed to account for both vertical and horizontal variations in soil properties.

(C) In the event that site-specific values for the soil properties cannot be determined because of sampling limitations, owners and operators shall use either the default values for the properties established by the department or appropriate literature values that can be justified as representative of site conditions with the approval of the department.

(13) Saturated Zone Characteristics. As appropriate in consideration of site conditions and release characteristics, owners and operators shall characterize the saturated zone to determine information relevant to transport and fate of chemicals of concern including, but not limited to, hydraulic conductivity, hydraulic gradients, saturated zone

soil properties, and the type and rate of biodegradation. Owners and operators may quantify these properties and characteristics for use in a tier 2 or tier 3 risk assessment. Owners and operators shall collect samples from, and conduct testing at, sufficient locations and in sufficient number, subject to approval by the department, to adequately account for heterogeneity. Sample and testing locations shall be distributed to account for both vertical and horizontal variations in saturated zone properties and characteristics. Saturated zone characteristics shall be determined based on field procedures, sampling and testing protocols, and lab methods specified by the department or alternative procedures, protocols, or methods approved by the department. Literature values may be used to quantify saturated zone properties and characteristics with the approval of the department.

(A) Hydraulic Conductivity. Owners and operators shall estimate hydraulic conductivity based on aquifer tests, grain size distribution, or literature values corresponding to the type of soil in the saturated zone. If a literature value is used, owners and operators shall determine an appropriate hydraulic conductivity value or values based on all predominant soil types composing the saturated zone and provide adequate reference and justification for the value or values selected.

(B) Hydraulic Gradients. Owners and operators shall determine hydraulic gradients based on measured water levels in monitoring wells at the site. A water level contour map shall be prepared based on water level data from monitoring wells screened in the same interval or hydrologic unit. For sites where wells are screened in multiple groundwater zones, a contour map for each zone shall be developed. For sites that have seasonal variation in hydraulic gradients or predominant flow direction, the average hydraulic gradient for each season and each flow direction shall be determined.

(14) Delineation Criteria. All chemicals of concern in all environmental media at a site shall be delineated to the default target levels, or other risk-based target levels for residential exposure if approved by the department. If the default target level or other risk-based target level for a chemical of concern is less than the required reporting limit established by the department, the detection limit shall be used as the delineation criterion. For laboratory analytical data to be accepted by the department, the laboratory detection limits shall not exceed the required reporting limits established by the department for any soil or water samples except in situations where the applicable target levels for all chemicals of concern exceed the required reporting limits established by the department, in which case detection limits must not exceed the applicable target levels.

(15) Degree and Extent of Contamination. Owners and operators shall collect soil and groundwater data to determine—

(A) Potential exposure pathways to human and ecological receptors under current and reasonably anticipated future conditions;

(B) The extent of chemicals of concern at concentrations above the default target levels or risk-based target levels for the identified exposure pathways; and

(C) Exposure domains for each complete exposure pathway and associated maximum or representative concentrations for chemicals of concern.

(16) Distribution of Chemicals of Concern in Soil. Owners and operators shall collect an adequate number of soil samples, as determined by the department, from surface and subsurface soils, including fill material, to meet the objectives listed in sections (14) and (15) of this rule.

(A) All soil sampling for chemicals of concern shall comply with the following provisions:

1. Soil samples from soil borings or probes shall be collected for field screening at each two-foot (2') or five-foot (5') interval, as appropriate;

2. Soil samples for laboratory analysis shall be collected in accordance with methods approved by the department. All soil sam-

ples shall be adequately preserved according to the requirements of the laboratory analyses and extracted within the holding times of each particular analytical method;

3. A chain of custody form must be completed for and accompany all samples. A copy of a completed chain of custody must be submitted with all laboratory analytical reports.

A. For samples requiring preservation by refrigeration, the chain of custody form for the samples shall indicate the temperature at which the samples were received by the laboratory. The department may reject data for samples received by the laboratory at temperatures above 6°C (+/- 2°C) or for which the temperature upon receipt at the laboratory is not recorded on the chain of custody; and

4. Adequate quality assurance and quality control procedures shall be utilized to ensure sample quality and integrity. Quality assurance and quality control samples shall include surrogate and spike recovery and trip blanks. Samples shall not be cross-contaminated by drilling fluid or by the drilling and sampling procedures. All sampling equipment must be decontaminated utilizing United States Environmental Protection Agency (U.S. EPA) and standard industry protocols.

(B) Soil borings or probes shall be located so as to define, and characterize concentrations of chemicals of concern in, the area of release at the site. Each soil boring or probe shall be continuously field screened and advanced until field screening at two (2) consecutive sampling intervals indicates chemicals of concern are at or below background levels.

1. At least one (1) soil boring or probe shall be located at the point of release or, if the point of release cannot be determined, near the center of the release area. For each boring or probe, at least one (1) surface soil sample shall be collected for laboratory analysis of chemicals of concern from the location or locations indicating the highest level or levels of contamination. If the release is known to have occurred below a depth of three (3) feet below ground surface, a surface soil sample need not be collected. Samples of soil below a depth of three feet (3') shall be collected at the point of release as described at paragraphs (16)(C)2., 3., and 4. of this rule.

(C) Soil samples for laboratory analysis shall be collected from each soil boring or probe in the area of release based on the following criteria:

1. For each boring or probe, at least one (1) soil sample shall be collected from surface soil if field screening indicates the presence of contamination;

2. For each boring or probe, at least one (1) soil sample shall be collected for the interval between three feet (3') below ground surface and the water table from the sample interval or intervals where field screening indicates the highest level or levels of contamination;

3. For each boring or probe, one (1) soil sample shall be collected at the interface of the vadose and saturated zones; and

4. For each boring or probe, at least one (1) soil sample shall be collected below the water table from the interval or intervals where field screening indicates the highest level or levels of contamination.

(D) Soil samples for laboratory analysis shall be collected from each soil boring or probe outside the area of release based on the following criteria:

1. For each boring or probe, at least one (1) soil sample shall be collected for the interval between three feet (3') below ground surface and the water table if field screening indicates the presence of contamination. The soil sample or samples shall be collected from the sample interval or intervals where field screening indicates the highest level or levels of contamination;

2. For each boring or probe, one (1) soil sample shall be collected at the interface of the vadose and saturated zones; and

3. For each boring or probe, at least one (1) soil sample shall be collected below the water table from the interval or intervals where field screening indicates the highest level or levels of contamination.

(E) For each boring or probe, at least one (1) soil sample shall be

collected at the bedrock interface in soil borings or probes where bedrock is encountered before reaching the water table.

(17) Distribution of Chemicals of Concern in Groundwater. Owners and operators shall collect an adequate number of groundwater samples, subject to approval by the department, to meet the objectives listed in sections (14) and (15) and subsection (16)(C) of this rule. An adequate number of monitoring wells, subject to approval by the department, shall be installed at the site to delineate the horizontal and vertical extent of the groundwater solute plume and determine the direction of groundwater flow at the site. Owners and operators may use temporary sampling points to screen for groundwater contamination and to assist in determining the optimal location of permanent monitoring wells. Chemicals of concern concentration data from temporary groundwater sampling points shall not be used in the risk assessments described in 10 CSR 26-2.078 except with the permission of the department.

(A) Monitoring wells must be installed in accordance with state rules and the following requirements:

1. Monitoring well placement and design shall consider the concentrations of chemicals of concern in the source area and the occurrence of light non-aqueous phase liquid (LNAPL) at the site;

2. Monitoring well casing and screen materials shall be properly selected. The top of the screened interval shall be set at no less than two feet (2'), and preferably five feet (5'), above the water table, unless the water table is within three feet (3') of the ground surface. If the water table varies over time by more than two feet (2'), the screened interval shall be set sufficiently above the water table so that it intersects the water table at all times;

3. Monitoring wells shall be properly developed and gauged after installation; and

4. A survey shall be conducted to establish monitoring well locations and elevations. Based on the groundwater elevations, groundwater flow direction and gradient shall be determined and plotted on a map of the site.

(B) All groundwater sampling for chemicals of concern shall comply with the following provisions:

1. Monitoring wells shall be purged using a purging strategy appropriate in consideration of the characteristics of the well and groundwater formation. The use of no-purge or low purge sampling techniques requires the prior approval of the department;

2. Groundwater samples for laboratory analysis shall be collected and analyzed in accordance with the methods approved by the department. Samples shall be adequately preserved according to the requirements of the laboratory analyses and extracted within the holding times of each particular analysis. Water samples to be analyzed for the fuel oxygenates listed in 10 CSR 26-2.075 Table 1 shall be preserved with tri-sodium phosphate dodecahydrate unless the analyzing laboratory purges samples at a temperature less than eighty degrees Celsius (80°C), in which case the samples may be acid-preserved;

3. A chain of custody form shall be completed for and accompany all samples. A copy of a completed chain of custody shall be submitted with all laboratory analytical reports.

A. For samples requiring preservation by refrigeration, the chain of custody form for the samples shall indicate the temperature at which the samples were received by the laboratory. The department may reject data for samples received by the laboratory at temperatures above 6°C (+/- 2°C) or for which the temperature upon receipt at the laboratory is not recorded on the chain of custody; and

4. Adequate quality assurance and quality control procedures shall be utilized to ensure sample quality and integrity. Quality assurance and quality control samples shall include surrogate, spike recovery, field blanks, and trip blanks. All sampling equipment shall be decontaminated using U.S. EPA and industry standard protocols.

(C) Solute Plume Behavior. Owners and operators shall conduct groundwater monitoring on a quarterly basis for a minimum of two (2) years or, with the written approval of the department, for a dif-

ferent period of time and on a basis other than quarterly, and for a period of time sufficient to document that the areal extent of and concentrations for chemicals of concern in the groundwater solute plume are not increasing. Owners and operators shall evaluate groundwater monitoring data using appropriate methodologies including, but not limited to, plots and maps of concentration data for chemicals of concern, statistical methods, and mass balance calculations, as approved by the department.

(18) Light Non-Aqueous Phase Liquid (LNAPL). If LNAPL is encountered in soil or groundwater at a site, owners and operators shall take appropriate actions to mitigate acute risks and hazards in accordance with 10 CSR 26-2.071, begin removal of LNAPL in accordance with 10 CSR 26-2.074, and develop a work plan for characterization of the LNAPL. Owners and operators shall submit the work plan to the department for approval prior to implementation. Owners and operators shall implement the work plan within forty-five (45) days of approval by the department.

(A) The work plan for characterization of LNAPL shall be designed to obtain data to determine the following:

1. The full vertical and horizontal extent of the LNAPL and whether and to what extent the LNAPL is migrating;

2. The extent to which LNAPL removal is practicable;

3. The most appropriate LNAPL removal method; and

4. The extent to which LNAPL removal is warranted based on the risks the LNAPL poses to human and ecological receptors.

(B) A sufficient number of investigation points, subject to approval by the department, including, but not limited to, probes, soil borings, monitoring wells, and soil gas sampling points shall be installed to ensure full characterization of mobile and immobile fractions of the LNAPL and associated dissolved and vapor-phase concentrations of chemicals of concern.

(C) The distribution of the LNAPL shall be determined and layers or seams of relatively high permeability materials that may act as pathways of LNAPL migration identified.

(D) Owners and operators shall conduct LNAPL monitoring on a quarterly basis for a minimum of two (2) years, or, with the written approval of the department, for a different period of time and on a basis other than quarterly, and for a period of time sufficient to document that the areal extent of the LNAPL is not increasing. Owners and operators shall evaluate LNAPL and groundwater monitoring data using appropriate methodologies approved by the department including, but not limited to, plots and maps of LNAPL thickness and concentration data for chemicals of concern. LNAPL thickness shall be evaluated in comparison to water level data.

(E) Owners and operators may determine LNAPL physical properties and composition using analytical methods approved by the department to allow site-specific determination of effective solubility and vapor pressure for chemicals of concern.

(19) Surface Water and Sediment Sampling. When a discharge of contaminated groundwater to a surface water body is suspected or known at a site, or when chemicals of concern from a release are suspected or known to have otherwise entered into a surface water body, the department may require that water and sediment samples be collected at and upstream and downstream of each point of discharge or entry. If one (1) or more discrete discharge or entry points cannot be identified, the point of discharge or entry shall be determined based on data pertaining to groundwater flow direction, the cross-sectional area of the groundwater solute plume, and release characteristics and conditions.

(A) The following information shall be collected for any surface water that is or potentially may be affected by the release or by chemicals of concern at the site:

1. Distance to the surface water body. If the body is impacted, the distance is zero; if the body might be impacted, the distance is measured from the leading edge of the groundwater plume or the down gradient edge of the area of release to the water body;

2. The location or likely location where chemicals of concern from the site would discharge into a surface water body;
3. Flow direction and depth of any groundwater contamination plume(s) in relation to the water body;
4. Lake or stream classification as found in 10 CSR 20-7.031, Table G and Table H respectively;
5. Lake or pond acreage or stream 7Q10 flow rate;
6. Determination of the beneficial uses of the lake or stream as found in 10 CSR 20-7.031, Table G and Table H respectively; and
7. Water quality criteria based upon the beneficial uses of the lake or stream as found in 10 CSR 20-7.031, Table A. If a water quality criterion for a chemical of concern is not available, contact the department project manager.

(20) Soil Gas Sampling. Soil gas sampling shall be performed using a methodology established by the department or other appropriate methodology approved by the department.

(A) Owners and operators shall develop a work plan for soil gas sampling. If the work plan is based on a methodology other than that established by the department, the work plan shall be submitted to the department, and the work plan shall not be implemented until approved by the department. The work plan shall include either a copy of the other appropriate methodology on which the work plan is based as an attachment or a clear, detailed reference for the other appropriate methodology.

(B) The department may require that owners and operators conduct soil gas sampling when the department believes an acute risk from vapor-phase chemicals of concern exists or might exist or develop at a site. The department may require such sampling at any time, including prior to the completion of a risk assessment.

(21) Laboratory Analytical Data. Laboratory analysis for chemicals of concern shall be performed using analytical methods required by the department, or alternative analytical methods approved by the department.

(A) Required Reporting Limits. All laboratory analytical data for chemicals of concern shall meet the minimum required reporting limits established by the department for soil and groundwater samples to the extent practicable, unless the applicable target level for a chemical of concern exceeds the required reporting limit for that chemical. Laboratories should achieve reporting limits lower than the required reporting limits where practical. Laboratory analytical reports shall include both the reporting limit and method detection limit for the analytes.

1. Where achieving a reporting limit that is equal to or less than an applicable target level is not possible due to practical constraints of the analytical method or particular sample, the laboratory shall strive to achieve the lowest practical reporting limit.

(B) A copy of a completed chain of custody shall accompany all laboratory analytical reports. The department will not accept laboratory data that is not accompanied by a corresponding chain of custody. The laboratory must ensure that the portions of the chain of custody form relevant to the laboratory are completed and the temperature at which samples preserved by refrigeration are received at the laboratory must be noted on the chain of custody.

(C) Laboratory analytical data shall be accompanied by quality assurance and quality control sample results. The following shall be considered in laboratory quality assurance and quality control planning and documentation, if applicable:

1. If the published analytical method used specifies quality assurance and quality control requirements within the method, those requirements shall be met and the quality assurance and quality control data reported with the sample results.

2. At a minimum, quality assurance and quality control samples shall consist of the following items, where applicable:

- A. Method/instrument blank;
- B. Extraction/digestion blank;
- C. Laboratory control samples;

- D. Duplicates;
- E. Matrix spikes/matrix spike duplicates; and
- F. Documentation of appropriate instrument performance data such as internal standard and surrogate recovery.

(22) Access to Adjacent and Nearby Property. Owners and operators shall make reasonable attempts to extend investigation onto an adjacent or nearby property to meet delineation criteria in all directions and media if concentrations of one (1) or more chemicals of concern in any media exceed or are likely to exceed delineation criteria at or near one (1) or more of the boundaries of the source property, unless the department determines that such access is not required.

(A) If owners and operators are unable to gain access to an adjacent or nearby property from the owner of the property or the owner's authorized representative, owners and operators shall notify the department and comply with the following provisions.

1. Owners and operators shall adequately document all unsuccessful attempts to gain access to adjacent and nearby properties in a manner acceptable to the department. Owners and operators shall provide the documentation of unsuccessful attempts to gain access to the department and obtain concurrence from the department that the attempts to gain access were legitimate and reasonable and that further attempts by the owners and operators need not be made.

2. In accordance with 10 CSR 26-2.080, owners and operators shall provide written notice of the contamination to the owner or the owner's authorized representative of the adjacent or nearby property to which access has been denied and document such notice to the department.

3. Owners and operators shall comply with subsection 10 CSR 26-2.079(3)(D).

AUTHORITY: sections 319.109 and 319.137 RSMo Supp. 2008. Material in this rule originally filed as 10 CSR 20-10.065. Original rule filed Feb. 13, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions \$56,981,760 in the aggregate and nine hundred nineteen thousand, eight hundred eighty-six dollars (\$919,886) annually.

PRIVATE COST: This proposed rule will cost private entities \$3,724,262 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

FISCAL NOTE**PUBLIC COST****I. RULE NUMBER**

Rule Number and Name: 10 CSR 26-2.076 Site Characterization and Data Requirements
Type of Rulemaking: Proposed rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	\$919,886 ¹ (annual)
Petroleum Storage Tank Insurance Fund	\$56,981,760 (aggregate) ²

III. Worksheet

See calculations in Section IV below.

IV. Assumptions

The proposed rule requires investigations to characterize the type and distribution of chemicals of concern in soil, groundwater and surface water; identify receptors and exposure pathways (including evaluation of land use); and investigate the physical properties of the vadose and saturated zones and, as warranted, bedrock in order to fully assess and delineate chemicals of concern. The following summarizes assumptions used in estimating the cost of the required site characterization activities.

- Average area of contamination is 185 feet x 185 feet, or 34,225 square feet
- One sample point per 900 square feet and three samples per point
- One groundwater well per 2,500 square feet and one sample per well
- $34,225/900=38$ soil sample points x 3 soil samples per point = 114 soil samples
- $34,225/2,500=14$ monitoring wells x 1 water sample per well = 14 water samples
- Total number of samples (soil and water) to meet delineation requirements = 128
- Per sample cost (collection and analysis) = \$350
- $\$350 \times 128$ samples = \$44,800
- Cost to characterize = \$44,800 per site

¹ This is the total cost to operate the department's Hazardous Waste Program, Tanks Section, Remediation Unit. The Remediation Unit oversees the application of all Title 10, Division 26, Chapter 2 rules pertaining to releases from underground storage tanks, not just proposed rule 10 CSR 26-2.076.

² Aggregate cost based on PSTIF responsible for 1,254 sites (see below)

The proposed rule also requires that, in the event contamination has migrated from the source property onto one or more adjacent properties, tank owners and operators must make reasonable attempts to gain access to the adjacent property or properties to complete site characterization activities. Whether access is or is not granted, the proposed rule requires owners and operators to inform owners of adjacent property about the contamination that has migrated on to their property. The following summarizes assumptions used in estimating the cost of these requirements.

- Contamination has migrated from the source property on to one adjacent property
- Cost of personnel making access attempts is \$80 per hour
- Time to make access attempts, whether in person or in writing, and to provide written notification to adjacent property owner regarding contamination: 8 hours
- 8 hours x \$80/hour = \$640 per site

Total per site cost to meet requirements of proposed rule 10 CSR 26-2.076:

- \$44,800 + \$640 = \$45,440

Cost of proposed rule 10 CSR 26-2.076 to Petroleum Storage Tank Insurance Fund (PSTIF)

The PSTIF is responsible for 1,254 underground storage tank release sites³. Therefore, the aggregate cost to PSTIF to meet the requirements of proposed rule 10 CSR 26-2.075 is as follows:

- \$45,440 per site x 1,254 sites = \$56,981,760

Cost of proposed rule 10 CSR 26-2.076 to the Department of Natural Resources

The Department of Natural Resources' Hazardous Waste Program, Tanks Section, Remediation Unit oversees the application of all Title 10, Division 26, Chapter 2 rules related to releases from underground storage tanks. The Remediation Unit includes two Environmental Specialist IVs, one Environmental Engineer I/II, and eight Environmental Specialist I/II/III. The following table summarizes the cost to operate the Remediation Unit. The costs are not solely associated with the Unit's administration of proposed rule 10 CSR 26-2.076; rather, it represents the cost to the department to administer all Division 26, Chapter 2 rules applicable to releases from regulated underground storage tanks.

³ December 15, 2008, State UST Fund Soundness Data Form, line 21, completed by Patrick Eriksen, Williams & Company, third party administrator of PSTIF

<u>Position</u>	<u>Number</u>	<u>Bi-monthly Rate</u>	<u>Annual Rate</u>
Environmental Engineer II	1	\$1,966.00	\$47,184
Environmental Specialist III	8	\$1,666	\$319,801
Environmental Specialist IV (Unit Chief)	1	\$1,806.00	\$43,344
Environmental Specialist IV (Technical)	1	\$2,004.00	\$48,084
Subtotal:	11		\$458,413
Fringe (42.9%)			\$196,659
E & E ⁴			\$64,207
Subtotal			719,279
Indirect (27.89%)			\$200,607
Total Costs for One Year - Existing Funding			\$919,886

The estimated annual cost of the proposed rule to the department is \$919,886. Note, however, this cost is applicable to the department's oversight of all rules pertaining to releases from underground storage tanks regulated by Title 10, Division 26, Chapter 2 rules, not just this rule.

NOTE: Proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082 present a process referred to as Risk-Based Corrective Action or RBCA. Proposed rule 10 CSR 26-2.075 presents a general overview of that process. The remaining rules expand on specific requirements of the process. In some cases, requirements are found in more than one rule. Where that occurs, efforts have been made to avoid duplication of costs in the fiscal notes. However, some costs might be accounted for in more than one fiscal note. Also, a number of assumptions and estimations are necessary in producing these fiscal notes. For these reasons, adding up the cost of each fiscal note may not necessarily produce an accurate cost of the entire RBCA process presented in proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

⁴ \$5,837 per employee – DNR ongoing E & E standard FY2009

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name
10 CSR 26-2.076 Site Characterization and Data Requirements
Type of Rulemaking
Proposed rule

II. SUMMARY OF FISCAL IMPACT

Classification by types of the business entities which would likely be affected:	Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
<ul style="list-style-type: none">• Retail automotive fueling stations• Fleet operations• Automotive service and repair facilities• Manufacturing operations• Other owners and operators of underground storage tank systems	>2,000 ¹	\$3,724,262 ²

III. Worksheet

See calculations in Section IV below.

¹ The Missouri Department of Natural Resources tanks database lists approximately 1,900 registered underground storage tank owners; the department assumes that several hundred additional owners exist who have not registered with the department.

² Approximately 94% of the total number of underground storage tank release sites are insured by the Petroleum Storage Tank Insurance Fund (PSTIF). Therefore, assuming PSTIF covers each insured party's full cost to comply with this rule, the aggregate private entity cost to comply with this rule is estimated as 6% of the total estimated cost of compliance of \$62,071,040. The remaining 94% of the cost of compliance will be borne by PSTIF, as explained in the public cost fiscal note for this rule.

IV. Assumptions

The proposed rule requires investigations to characterize the type and distribution of chemicals of concern in soil, groundwater and surface water; identify receptors and exposure pathways (including evaluation of land use); and investigate the physical properties of the vadose and saturated zones and, as warranted, bedrock in order to fully assess and delineate chemicals of concern. The following summarizes assumptions used in estimating the cost of the required site characterization activities.

- Average area of contamination is 185 feet x 185 feet, or 34,225 square feet
- One sample point per 900 square feet and three samples per point
- One groundwater well per 2,500 square feet and one sample per well
- $34,225/900=38$ soil sample points x 3 soil samples per point = 114 soil samples
- $34,225/2,500=14$ monitoring wells x 1 water sample per well = 14 water samples
- Total number of samples (soil and water) to meet delineation requirements = 128
- Per sample cost (collection and analysis) = \$350
- $\$350 \times 128 \text{ samples} = \$44,800$
- Cost to characterize = \$44,800 per site

The proposed rule also requires that, in the event contamination has migrated from the source property onto one or more adjacent properties, tank owners and operators must make reasonable attempts to gain access to the adjacent property or properties to complete site characterization activities. Whether access is or is not granted, the proposed rule requires owners and operators to inform owners of adjacent property about the contamination that has migrated on to their property. The following summarizes assumptions used in estimating the cost of these requirements.

- Contamination has migrated from the source property on to one adjacent property
- Cost of personnel making access attempts is \$80 per hour
- Time to make access attempts, whether in person or in writing, and to provide written notification to adjacent property owner regarding contamination: 8 hours
- $8 \text{ hours} \times \$80/\text{hour} = \640 per site

Total per site cost to meet requirements of proposed rule 10 CSR 26-2.076:

- $\$44,800 + \$640 = \$45,440$

Total aggregate private cost to meet the requirements of proposed rule 10 CSR 26-2.076:

- $1,366 \text{ sites}^3 \times \$45,440 = \$62,071,040$

However, approximately 94% of underground storage tank sites are insured by the Petroleum Storage Tank Insurance Fund (PSTIF). Therefore, assuming PSTIF covers

³ Missouri Department of Natural Resources Tanks Database indicates 1,366 active release sites as of February 24, 2009. Approximately 94% of the sites are insured by the Petroleum Storage Tank Insurance Fund.

each insured party's full cost to comply with this rule, the aggregate private entity cost to comply with this rule is estimated as 6% of the total estimated cost of compliance. The remaining 94% of the cost of compliance will be borne by PSTIF, as explained in the public cost fiscal note for this rule.

Total aggregate private entity cost to meet the requirements of proposed rule 10 CSR 26-2.076 in consideration of 94% of sites being insured by PSTIF:

- $\$62,071,040 \times 0.06 = \$3,724,262$

NOTE: Proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082 present a process referred to as Risk-Based Corrective Action or RBCA. Proposed rule 10 CSR 26-2.075 presents a general overview of that process. The remaining rules expand on specific requirements of the process. In some cases, requirements are found in more than one rule. Where that occurs, efforts have been made to avoid duplication of costs in the fiscal notes. However, some costs might be accounted for in more than one fiscal note. Also, a number of assumptions and estimations are necessary in producing these fiscal notes. For these reasons, adding up the cost of each fiscal note may not necessarily produce an accurate cost of the entire RBCA process presented in proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 26—Petroleum and Hazardous Substance
Storage Tanks
Chapter 2—Underground Storage Tanks—Technical
Regulations

PROPOSED RULE

10 CSR 26-2.077 Risk-Based Target Levels

PURPOSE: This rule sets forth the procedures and requirements for developing risk-based target levels at petroleum storage tank release sites.

(1) Risk-based target levels shall be determined for chemicals of concern in accordance with the requirements of this rule.

(2) Reserved.

(3) Determination of applicable target levels shall be consistent with the risk assessment tier being evaluated under 10 CSR 26-2.078 and may include:

- (A) Default target levels;
- (B) Tier 1 risk-based target levels;
- (C) Tier 2 site-specific target levels; or
- (D) Tier 3 site-specific target levels.

(4) Target Risk Level. Risk-based target levels shall be calculated for chemicals of concern using the following target risk levels:

(A) For chemicals of concern that are carcinogenic, the target risk level for each chemical of concern and route of exposure shall be an individual excess lifetime cancer risk of one in one hundred thousand (1×10^{-5});

(B) For chemicals of concern that are non-carcinogenic, the target risk level for each chemical of concern and route of exposure shall be a hazard quotient of one (1); and

(C) Additive risk due to multiple chemicals and multiple routes of exposure is not considered.

(5) Toxicity Factors. Risk-based target levels shall be determined for chemicals of concern using the most recent values for the cancer slope factor, inhalation unit risk, reference dose or reference concentration recommended by the United States Environmental Protection Agency, or other values determined by the department, except as provided for in section (11) of this rule.

(A) Dermal toxicity values shall be determined using a methodology approved by the department.

(6) Physical and Chemical Properties. Risk-based target levels shall be determined for chemicals of concern using values for physical and chemical properties established by the department, except as provided in section (11) of this rule.

(7) Exposure Factors. Risk-based target levels shall be determined for chemicals of concern using values for exposure factors specific to a receptor and exposure pathway established by the department, except as provided in section (11) of this rule.

(8) Mathematical Models. Risk-based target levels shall be determined for chemicals of concern using models for determining uptake and transport and fate established by the department, except as provided in section (11) of this rule.

(9) Tier 1 Risk-Based Target Levels. Risk-based target levels for a tier 1 risk assessment shall be determined by the department using models and default values established by the department.

(10) Tier 2 Site-Specific Target Levels. Owners and operators shall determine tier 2 site-specific target levels using models and equations

established by the department and representative values for fate and transport parameters appropriate to the site derived from site-specific data and information subject to approval by the department.

(A) The values for fate and transport parameters shall be technically defensible and justifiable as representative of the site.

(B) Owners and operators shall use the dilution-attenuation factor values for the vadose zone based on depth to groundwater at the site listed in Table 1 to account for reduction in concentration during leaching through the vadose zone.

(C) Lead. Owners and operators shall not determine tier 2 site-specific target levels for lead and the tier 1 risk-based target levels shall be used. Site-specific target levels for lead may be determined by owners and operators as part of a tier 3 risk assessment if appropriate.

(11) Tier 3 Target Levels. Owners and operators shall determine tier 3 site-specific target levels using values for fate and transport parameters appropriate to the site derived from site-specific data and information, subject to approval by the department.

(A) The values for fate and transport parameters shall be technically defensible and justifiable as appropriate for the site, exposure pathways being evaluated, and models being employed.

(B) Owners and operators may use an alternative value or values for toxicity factors, physical and chemical properties, and exposure factors if the value can be adequately justified by the responsible party and is approved by the department.

(C) Owners and operators may use an alternative model or models to evaluate transport and fate of chemicals of concern and exposure pathways if the model can be adequately justified by the responsible party and is approved by the department.

(D) Lead. Owners and operators may determine tier 3 site-specific target levels for lead using an appropriate model approved by the department.

(12) Deviation from Risk-Based and Site-Specific Target Levels. The department may require the application of target levels other than those referenced at subsections (3)(A)–(D) of this rule and subparagraphs 10 CSR 26-2.012(1)(A)3.A.–C. if the department determines in writing that a deviation is appropriate based on changes in the scientific data used to calculate the target levels listed in subsections (3)(A)–(D) of this rule and subparagraphs 10 CSR 26-2.012(A)3.A.–C.

Table 1 – Dilution-attenuation factors for vadose zone transport.

Depth to groundwater	Dilution-attenuation factor
Less than 20 feet	1
20 – 50 feet	2
Greater than 50 feet	4

AUTHORITY: section 319. III, RSMo 2000 and sections 319.109 and 319.137, RSMo Supp. 2008. Material in this rule originally filed as 10 CSR 20-10.068. Original rule filed Feb. 13, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions \$8,937,840 in the aggregate and nine hundred nineteen thousand, eight hundred eighty-six dollars (\$919,886) annually.

PRIVATE COST: This proposed rule will cost private entities five hundred eighty-four thousand, four hundred fifty dollars (\$584,450) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission

will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name: 10 CSR 26-2.077 Risk-Based Target Levels
Type of Rulemaking: Proposed rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	\$919,886 (annual cost) ¹
Petroleum Storage Tank Insurance Fund	\$8,937,840 (aggregate)

III. Worksheet

See calculations in Section IV below.

IV. Assumptions

The proposed rule requires the determination of risk-based target levels for each relevant chemical of concern. Three types of risk-based target levels are provided for:

- Tier 1 Risk-Based Target Levels are developed by the department and published in guidance. Their application is dependent on soil type and land use.
- Tier 2 Site-Specific Target Levels are developed using the same models and many of the same factors (toxicity, physical/chemical parameters, and exposure factors) used in developing the Tier 1 RBTLs but site-specific fate and transport data collected in the field or from literature by underground storage tank owners and operators. Tier 2 SSTLs are dependent on land use and site-specific fate and transport data.
- Tier 3 Site-Specific Target Levels may be developed using some of the same models and inputs as used in developing the Tier 1 RBTLs or by using entirely different models and inputs. Tier 3 SSTLs are dependent on land use and input data.

Proposed rule 10 CSR 26-2.077 and the Risk-Based Corrective Action process generally allow owners and operators to choose the target levels applied at their sites. Therefore, this fiscal note evaluates the cost associated with applying each of the three types of target levels.

Cost evaluation of applying Tier 1 Risk-Based Target Levels

Tier 1 RBTLs are pre-calculated target levels found in the department's *Risk-Based Corrective Action Process for Petroleum Storage Tanks* guidance document. Because the Tier 1 RBTLs are

¹ This is the total cost to operate the department's Hazardous Waste Program, Tanks Section, Remediation Unit. The Remediation Unit oversees the application of all Title 10, Division 26, Chapter 2 rules pertaining to releases from underground storage tanks, not just proposed rule 10 CSR 26-2.077.

pre-calculated, they need not be determined by owners and operators, department staff, or others on a site-specific basis. The department incurred one-time costs for the development of the Tier 1 RBTLs (though, if the Tier 1 RBTLs change in the future due to, for instance, changes in toxicity values, the department will incur costs to update the RBTLs). While owners and operators will not incur costs for the development of Tier 1 RBTLs, they will incur costs in applying the Tier 1 RBTLs, as which Tier 1 RBTLs apply is dependent on land use, complete exposure pathways, and soil type.

The following summarizes the assumptions made in estimating costs associated with evaluations of land use and exposure pathways and determination of soil type:

- Assume professional staff rate of \$80/hour
- Assume land use evaluation requires 4 hours
- Assume exposure pathway evaluation requires 20 hours
 - $(\$80 \times 4) + (\$80 \times 20) = \$1,920$ per site
- For soil type determination, assume 4 sample points and 2 soil samples per point (total of 8 samples for analysis) are required
 - \$500 per sample point and collection of 2 samples per point
 - \$200 per soil sample analysis for soil type
 - $(4 \times \$500) + (8 \times \$200) = \$3,600$ per site for soil type determination
- Total per site cost to allow determination of applicable Tier 1 RBTLs:
 - $\$1,920 + \$3,600 = \$5,520$ per site

Evaluation of cost to determine Tier 2 Site-Specific Target Levels

Tier 2 SSTLs are developed by owners and operators using the same models and inputs used to develop the Tier 1 RBTLs except the fate and transport data used in the model is collected site-specifically. In general, the following data is collected when developing Tier 2 SSTLs: vadose zone volumetric water content, vadose zone fractional organic carbon, soil bulk density, and soil porosity. (Note: in most cases, Tier 2 data would be collected during site characterization activities and would not require additional sampling points as presented here.) The data is then entered into computer software that calculates the Tier 2 SSTLs for the site.

The following summarizes the assumptions used in estimating the cost to collect this data and enter it into the computer software:

- Assume professional staff rate of \$80/hour
- Assume 5 sampling points required to ensure samples collected are representative of the entirety of the site
- Assume cost to drill sampling point and collect samples is \$500 per sampling point
- Assume 1 sample per sampling point for analysis of bulk density and porosity (porosity derived from bulk density and specific gravity)
- Assume 4 samples per sampling point for analysis of volumetric water content
- Assume 4 samples per sampling point for analysis of fractional organic carbon
- Assume cost of bulk density and porosity analyses is \$100/sample

- Assume cost of volumetric water content analysis is \$50/sample
- Assume cost of fractional organic carbon content analysis is \$200/sample
- Total per site cost to collect and analyze data needed for development of Tier 2 SSTLs:
 - $(5 \times \$500) + ((1 \times 5) \times \$100) + ((4 \times 5) \times \$50) + ((4 \times 5) \times \$200) = \$8,000$ per site
- Cost to enter data into computer to allow software to calculate Tier 2 SSTLs:
 - $4 \text{ hours} \times \$80 = \320 per site
- Total per site cost to develop Tier 2 SSTLs:
 - $\$8,000 + \$320 = \$8,320$

Evaluation of cost to determine Tier 3 Site-Specific Target Levels

Tier 3 SSTLs can be determined in a variety of ways and, therefore, the cost associated with developing Tier 3 SSTLs might vary considerably from one instance to another. At the low end of the cost spectrum, development of Tier 3 SSTLs might be less than or very similar to the cost of applying the Tier 1 RBTLs. At the other end of the cost spectrum, development of Tier 3 SSTLs might be two times or more the cost to develop Tier 2 SSTLs.

Given the inherent variability in the potential cost to develop Tier 3 SSTLs, for the purposes of this fiscal note, the department has estimated the range to be from \$5,000 to \$20,000 per site and the average cost as \$12,500 per site.

Estimation of cost of proposed rule 10 CSR 26-2.077 to the Petroleum Storage Tank Insurance Fund

The following summarizes the assumptions used in determining the cost of compliance with proposed rule 10 CSR 26-2.077 to PSTIF:

- Assume PSTIF responsible for 1,254 sites²
- Assume Tier 1 RBTLs applied at 44% or 552 sites
- Assume Tier 2 SSTLs applied at 55% or 690 sites
- Assume Tier 3 SSTLs applied at 1% or 12 sites
- $(552 \times \$5,520) + (690 \times \$8,320) + (12 \times \$12,500) =$
 $(\$3,047,040) + (\$5,740,800) + (\$150,000) = \$8,937,840$

Total aggregate cost of proposed rule 10 CSR 26-2.077 to PSTIF is \$8,937,840

Estimation of the cost of 10 CSR 26-2.077 to the Department of Natural Resources

The Department of Natural Resources' Hazardous Waste Program, Tanks Section, Remediation Unit oversees the application of all Title 10, Division 26, Chapter 2 rules related to releases from underground storage tanks. The Remediation Unit includes two Environmental Specialist IVs, one Environmental Engineer I/II, and eight Environmental Specialist I/II/IIIs. The following table summarizes the cost to operate the Remediation Unit. The costs are not solely associated with the Unit's administration of proposed rule 10 CSR 26-2.077; rather, it represents the cost to

² December 15, 2008, State UST Soundness Data Form, line 21, completed by Patrick Eriksen, Williams & Company, third party administrator of PSTIF

the department to administer all Division 26, Chapter 2 rules applicable to releases from regulated underground storage tanks.

<u>Position</u>	<u>Number</u>	<u>Bi-monthly Rate</u>	<u>Annual Rate</u>
Environmental Engineer II	1	\$1,966.00	\$47,184
Environmental Specialist III	8	\$1,666	\$319,801
Environmental Specialist IV (Unit Chief)	1	\$1,806.00	\$43,344
Environmental Specialist IV (Technical)	1	\$2,004.00	\$48,084
Subtotal:	11		\$458,413
Fringe (42.9%)			\$196,659
E & E ³			\$64,207
Subtotal			719,279
Indirect (27.89%)			\$200,607
Total Costs for One Year - Existing Funding			\$919,886

The estimated annual cost of the proposed rule to the department is \$919,886. Note, however, this cost is applicable to the department's oversight of all rules pertaining to releases from underground storage tanks regulated by Title 10, Division 26, Chapter 2 rules, not just this rule.

NOTE: Proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082 present a process referred to as Risk-Based Corrective Action or RBCA. Proposed rule 10 CSR 26-2.075 presents a general overview of that process. The remaining rules expand on specific requirements of the process. In some cases, requirements are found in more than one rule. Where that occurs, efforts have been made to avoid duplication of costs in the fiscal notes. However, some costs might be accounted for in more than one fiscal note. Also, a number of assumptions and estimations are necessary in producing these fiscal notes. For these reasons, adding up the cost of each fiscal note may not necessarily produce an accurate cost of the entire RBCA process presented in proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

³ \$5,837 per employee – DNR ongoing E & E standard FY2009

FISCAL NOTE**PRIVATE COST****I. RULE NUMBER**

Rule Number and Name: 10 CSR 26-2.077 Risk-Based Target Levels
Type of Rulemaking: Proposed rule

II. SUMMARY OF FISCAL IMPACT

Classification by types of the business entities which would likely be affected:	Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
<ul style="list-style-type: none"> • Retail automotive fueling stations • Fleet operations • Automotive service and repair facilities • Manufacturing operations • Other owners and operators of underground storage tank systems 	>2,000 ¹	\$584,450 ²

III. Worksheet

See calculations in Section IV below.

¹ The Missouri Department of Natural Resources tanks database lists approximately 1,900 registered underground storage tank owners; the department assumes that several hundred additional owners exist who have not registered with the department.

² Approximately 94% of the total number of underground storage tank release sites are insured by the Petroleum Storage Tank Insurance Fund (PSTIF). Therefore, assuming PSTIF covers each insured party's full cost to comply with this rule, the aggregate private entity cost to comply with this rule is estimated as 6% of the total estimated cost of compliance of \$9,740,840. The remaining 94% of the cost of compliance will be borne by PSTIF, as explained in the public cost fiscal note for this rule. In addition, requirements associated with 10 CSR 26-2.077 are also found, at least in part, in proposed rules 10 CSR 26-2.075 and 10 CSR 26-2.076. Costs have been estimated on a per-rule basis but should not be considered cumulatively.

IV. Assumptions

The proposed rule requires the determination of risk-based target levels for each relevant chemical of concern. Three types of risk-based target levels are provided for:

- Tier 1 Risk-Based Target Levels are developed by the department and published in guidance. Their application is dependent on soil type and land use.
- Tier 2 Site-Specific Target Levels are developed using the same models and many of the same factors (toxicity, physical/chemical parameters, and exposure factors) used in developing the Tier 1 RBTLs but site-specific fate and transport data collected in the field or from literature by underground storage tank owners and operators. Tier 2 SSTLs are dependent on land use and site-specific fate and transport data.
- Tier 3 Site-Specific Target Levels may be developed using some of the same models and inputs as used in developing the Tier 1 RBTLs or by using entirely different models and inputs. Tier 3 SSTLs are dependent on land use and input data.

Proposed rule 10 CSR 26-2.077 and the Risk-Based Corrective Action process generally allow owners and operators to choose the target levels applied at their sites. Therefore, this fiscal note evaluates the cost associated with applying each of the three types of target levels.

Cost evaluation of applying Tier 1 Risk-Based Target Levels

Tier 1 RBTLs are pre-calculated target levels found in the department's *Risk-Based Corrective Action Process for Petroleum Storage Tanks* guidance document. Because the Tier 1 RBTLs are pre-calculated, they need not be determined by owners and operators, department staff, or others on a site-specific basis. The department incurred one-time costs for the development of the Tier 1 RBTLs (though, if the Tier 1 RBTLs change in the future due to, for instance, changes in toxicity values, the department will incur costs to update the RBTLs). While owners and operators will not incur costs for the development of Tier 1 RBTLs, they will incur costs in applying the Tier 1 RBTLs, as which Tier 1 RBTLs apply is dependent on land use, complete exposure pathways, and soil type.

The following summarizes the assumptions made in estimating costs associated with evaluations of land use and exposure pathways and determination of soil type:

- Assume professional staff rate of \$80/hour
- Assume land use evaluation requires 4 hours
- Assume exposure pathway evaluation requires 20 hours
 - $(\$80 \times 4) + (\$80 \times 20) = \$1,920$ per site
- For soil type determination, assume 4 sample points and 2 soil samples per point (total of 8 samples for analysis) are required
 - \$500 per sample point and collection of 2 samples per point
 - \$200 per soil sample analysis for soil type

- $(4 \times \$500) + (8 \times \$200) = \$3,600$ per site for soil type determination
- Total per site cost to allow determination of applicable Tier 1 RBTLs:
 - $\$1,920 + \$3,600 = \$5,520$ per site

Evaluation of cost to determine Tier 2 Site-Specific Target Levels

Tier 2 SSTLs are developed by owners and operators using the same models and inputs used to develop the Tier 1 RBTLs except the fate and transport data used in the model is collected site-specifically. In general, the following data is collected when developing Tier 2 SSTLs: vadose zone volumetric water content, vadose zone fractional organic carbon, soil bulk density, and soil porosity. The data is then entered into computer software that calculates the Tier 2 SSTLs for the site.

The following summarizes the assumptions used in estimating the cost to collect this data and enter it into the computer software:

- Assume professional staff rate of \$80/hour
- Assume 5 sampling points required to ensure samples collected are representative of the entirety of the site
- Assume cost to drill sampling point and collect samples is \$500 per sampling point
- Assume 1 sample per sampling point for analysis of bulk density and porosity (porosity derived from bulk density and specific gravity)
- Assume 4 samples per sampling point for analysis of volumetric water content
- Assume 4 samples per sampling point for analysis of fractional organic carbon
- Assume cost of bulk density and porosity analyses is \$100/sample
- Assume cost of volumetric water content analysis is \$50/sample
- Assume cost of fractional organic carbon content analysis is \$200/sample
- Total per site cost to collect and analyze data needed for development of Tier 2 SSTLs:
 - $(5 \times \$500) + ((1 \times 5) \times \$100) + ((4 \times 5) \times \$50) + ((4 \times 5) \times \$200) = \$8,000$ per site
- Cost to enter data into computer to allow software to calculate Tier 2 SSTLs:
 - $4 \text{ hours} \times \$80 = \320 per site
- Total per site cost to develop Tier 2 SSTLs:
 - $\$8,000 + \$320 = \$8,320$

Evaluation of cost to determine Tier 3 Site-Specific Target Levels

Tier 3 SSTLs can be determined in a variety of ways and, therefore, the cost associated with developing Tier 3 SSTLs might vary considerably from one instance to another. At the low end of the cost spectrum, development of Tier 3 SSTLs might be less than or very similar to the cost of applying the Tier 1 RBTLs. At the other end of the cost spectrum, development of Tier 3 SSTLs might be two times or more the cost to develop Tier 2 SSTLs.

Given the inherent variability in the potential cost to develop Tier 3 SSTLs, for the purposes of this fiscal note, the department has estimated the range to be from \$5,000 to \$20,000 per site and the average cost as \$12,500 per site.

Estimate of aggregate cost to private entities of proposed rule 10 CSR 26-2.077

The following summarizes assumptions used in estimating the total aggregate cost for private entities to comply with proposed rule 10 CSR 26-2.077:

- Assume 1,366 sites³
- Assume Tier 1 RBTLs will be applied at 44% or 601 sites
- Assume Tier 2 SSTLs will be applied at 55% or 751 sites
- Assume Tier 3 SSTLs will be applied at 1% or 14 sites
- $(601 \times \$5,520) + (751 \times \$8,320) + (14 \times \$12,500) =$
 $(\$3,317,520) + (\$6,248,320) + (\$175,000) = \$9,740,840$

Total aggregate cost for private entities to comply with proposed rule 10 CSR 26-2.077 is \$9,740,840.

However, approximately 94% of underground storage tank sites are insured by the Petroleum Storage Tank Insurance Fund (PSTIF). Therefore, assuming PSTIF covers each insured party's full cost to comply with this rule, the aggregate private entity cost to comply with this rule is estimated as 6% of the total estimated cost of compliance. The remaining 94% of the cost of compliance will be borne by PSTIF, as explained in the public cost fiscal note for this rule.

Total aggregate private entity cost to meet the requirements of proposed rule 10 CSR 26-2.077 in consideration of 94% of sites being insured by PSTIF:

- $\$9,740,840 \times 0.06 = \$584,450$

NOTE: Proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082 present a process referred to as Risk-Based Corrective Action or RBCA. Proposed rule 10 CSR 26-2.075 presents a general overview of that process. The remaining rules expand on specific requirements of the process. In some cases, requirements are found in more than one rule. Where that occurs, efforts have been made to avoid duplication of costs in the fiscal notes. However, some costs might be accounted for in more than one fiscal note. Also, a number of assumptions and estimations are necessary in producing these fiscal notes. For these reasons, adding up the cost of each fiscal note may not necessarily produce an accurate cost of the entire RBCA process presented in proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

³ Missouri Department of Natural Resources Tanks Database indicates 1,366 active release sites as of February 24, 2009. Approximately 94% of the sites are insured by the Petroleum Storage Tank Insurance Fund.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 26—Petroleum and Hazardous Substance
Storage Tanks
Chapter 2—Underground Storage Tanks—Technical
Regulations

PROPOSED RULE

10 CSR 26-2.078 Tiered Risk Assessment Process

PURPOSE: This rule presents requirements regarding assessing human health and environmental risk posed by chemicals of concern associated with releases from petroleum storage tank systems.

(1) If the maximum soil or groundwater concentrations for chemicals of concern at a site exceed the default target levels established by the department and owners and operators choose not to undertake corrective action to achieve the default target levels, then the owners and operators shall evaluate risk for the chemicals of concern at the site in accordance with this rule and, as warranted, take corrective action in accordance with the requirements of 10 CSR 26-2.079–10 CSR 26-2.082.

(2) Tier 1 Risk Assessment. Owners and operators shall assess risks posed by chemicals of concern at the site based on the conceptual model for the site developed in accordance with 10 CSR 26-2.075.

(A) Owners and operators shall use the conceptual site model to identify any missing or inadequate data and information and conduct necessary site characterization in accordance with 10 CSR 26-2.076.

(B) Owners and operators shall determine the vadose zone soil type or types in accordance with the provisions in section 10 CSR 26-2.076(11). Owners and operators may use soil type one as a default in lieu of the determination or the department may require such use.

(C) Owners and operators shall determine maximum and representative concentrations for chemicals of concern in each affected environmental media and exposure domain appropriate for each complete exposure pathway in accordance with the provisions in section 10 CSR 26-2.075(19).

(D) Owners and operators shall compare maximum or representative concentrations for chemicals of concern to tier 1 risk-based target levels established by the department for each complete exposure pathway at the site. If the maximum concentration for a chemical of concern does not exceed the tier 1 risk-based target level, calculation of the representative concentrations shall not be necessary.

(E) At sites where tier 1 risk-based target levels applicable to one (1) or more of the indoor air inhalation pathways are exceeded, owners and operators may perform soil gas sampling in accordance with section 10 CSR 26-2.076(20). If owners and operators choose to conduct soil gas sampling, the department recommends that a work plan be submitted to, and approved by, the department prior to conducting such sampling, regardless of whether the work plan is required to be submitted in accordance with 10 CSR 26-2.076(20).

1. Owners and operators shall determine maximum and representative concentrations for chemicals of concern in soil gas in accordance with 10 CSR 26-2.075(19) based on more than one (1) round of soil gas sampling, with the total number of sampling events as approved by the department.

2. Owners and operators shall compare maximum and representative concentrations for chemicals of concern in soil gas to the tier 1 risk-based target levels for soil gas. The results of the comparison shall be used to determine whether tier 1 risk-based target levels for the indoor inhalation pathway are exceeded.

(F) If one (1) or more representative concentrations for chemicals of concern exceed the tier 1 risk-based target levels, owners and operators shall—

1. Develop a corrective action plan based on default target levels or tier 1 risk-based target levels; or

2. Conduct a tier 2 risk assessment.

(G) Owners and operators shall submit a risk assessment report for approval by the department that documents the tier 1 risk assessment and recommendations. If a tier 2 risk assessment is to be conducted, the results for both the tier 1 and tier 2 risk assessments may be submitted in a single report.

1. Based on the results of the tier 1 risk assessment, the department may require that owners and operators conduct a tier 2 risk assessment.

(H) Owners and operators may request that the department make a no further remedial action determination for the site if the maximum or representative concentrations for all chemicals of concern and all complete exposure pathways are below the tier 1 risk-based target levels subject to the conditions in section 10 CSR 26-2.082(4). If a no further remedial action determination is requested based on the results of the tier 1 risk assessment, the risk assessment report shall include documentation necessary to support the determination.

(3) Tier 2 Risk Assessment. Owners and operators shall assess risks posed by chemicals of concern at the site based on the conceptual model for the site developed in accordance with 10 CSR 26-2.075. The department may require that owners and operators conduct a tier 2 risk assessment if the site-specific fate and transport parameters or other site conditions are different from the default assumptions used to develop tier 1 risk-based target levels. A tier 1 risk assessment need not necessarily be conducted prior to conducting a tier 2 risk assessment.

(A) Prior to conducting a tier 2 risk assessment, owners and operators shall use the conceptual site model to identify any missing or inadequate data and information and conduct necessary site characterization in accordance with 10 CSR 26-2.076. Information specific to site characterization may be provided to the department in a report separate from the risk assessment report.

(B) Owners and operators shall determine and evaluate site-specific values for fate and transport parameters and select representative values, subject to approval by the department, to be used in developing tier 2 site-specific target levels.

1. Site-specific values for fate and transport parameters shall be—

A. Measured on site at appropriate locations using approved methods;

B. Literature values justified as being representative of site conditions; or

C. Default values justified as representative of current conditions at the site or shown to be conservative based on site conditions.

2. Owners and operators shall provide a justification for selecting the representative value for each fate and transport parameter explaining why the value is appropriate for the site.

A. At sites where site-specific fate and transport parameter values show considerable spatial or temporal variability, the department may require that a sensitivity analysis be performed.

(C) Owners and operators shall determine revised representative concentrations if additional data is available.

(D) Owners and operators shall use the representative site-specific fate and transport parameter values to develop tier 2 site-specific target levels for chemicals of concern and all complete exposure pathways, including exposure pathways for which representative concentrations did not exceed tier 1 risk-based target levels, at the site in accordance with section 10 CSR 26-2.077(10).

(E) Owners and operators shall compare maximum or representative concentrations for chemicals of concern to the tier 2 site-specific target levels for each complete exposure pathway at the site.

(F) At sites where tier 2 site-specific target levels applicable to one (1) or more of the indoor inhalation pathways are exceeded, owners and operators may perform soil gas sampling in accordance with section 10 CSR 26-2.076(20). If owners and operators choose to conduct soil gas sampling, the department recommends that a work plan be submitted to, and approved by, the department prior to conducting such sampling, regardless of whether the work plan is required

to be submitted in accordance with section 10 CSR 26-2.076(20).

1. Owners and operators shall determine maximum or representative concentrations for chemicals of concern in soil gas in accordance with subsection 10 CSR 26-2.075(19)(B) based on more than one (1) round of soil gas sampling, with the total number of sampling events as approved by the department.

2. Owners and operators shall develop tier 2 site-specific target levels for soil gas for the indoor inhalation exposure pathway using representative site-specific fate and transport parameter values, subject to approval by the department, in accordance with section 10 CSR 26-2.077(10).

3. Owners and operators shall compare maximum or representative concentrations for chemicals of concern in soil gas to the tier 2 site-specific target levels for soil gas. The results of the comparison shall be used to determine whether tier 2 site-specific target levels for the indoor inhalation exposure pathway are exceeded.

(G) If one (1) or more representative concentrations for chemicals of concern exceed the tier 2 site-specific target levels, owners and operators shall—

1. Develop a corrective action plan based on the default target levels, tier 1 risk-based target levels, or tier 2 site-specific target levels; or

2. Conduct a tier 3 risk assessment.

(H) Owners and operators shall submit a risk assessment report for approval by the department that documents the tier 2 risk assessment and recommendations. If a tier 1 risk assessment report was not previously submitted, the results for both the tier 1 and tier 2 risk assessments may be submitted in a single report.

(I) Owners and operators may request that the department make a no further remedial action determination for the site if the maximum or representative concentration for all chemicals of concern and all complete exposure pathways are below the tier 2 site-specific target levels subject to the conditions in section 10 CSR 26-2.082(4). If a no further remedial action determination is requested based on the results of the tier 2 risk assessment, the risk assessment report shall include documentation necessary to support the determination.

(4) Tier 3 Risk Assessment. A tier 3 risk assessment is a detailed, site-specific evaluation that owners and operators may conduct only after receiving approval of a tier 3 risk assessment work plan from the department. Owners and operators shall assess risks posed by chemicals of concern at the site based on the conceptual model for the site developed in accordance with 10 CSR 26-2.075. The tier 3 risk assessment may use the most recent toxicity factors and physical and chemical properties data, alternative fate and transport and risk assessment models, and site-specific fate and transport and exposure factors. The tier 3 risk assessment shall consider only the complete exposure pathways for which representative concentrations of chemicals of concern at the site exceed the tier 2 site-specific target levels, and any additional receptors and exposure pathways identified, unless the resulting tier 3 site-specific target levels are or are likely to be more conservative than the tier 2 site-specific target levels in which case the tier 2 risk assessment findings shall be re-evaluated and the department may require that tier 3 site-specific target levels be developed for those pathways.

(A) Tier 3 Risk Assessment Work Plan. Owners and operators shall develop a detailed technical work plan that shall be submitted to and approved by the department prior to being implemented. The work plan shall include, at a minimum, the following:

1. An explanation of the chemicals of concern and complete exposure pathways at the site to be evaluated in the tier 3 risk assessment;

2. A detailed explanation of the fate and transport models to be used. Owners and operators may propose the use of a model or models different than those used to develop tier 1 risk-based target levels and tier 2 site-specific target levels. At a minimum, the proposed model shall be peer reviewed, publicly available, have a history of use on similar projects, and be technically defensible. In certain cases where specific computer software is used to conduct the tier 3

risk assessment, the department may require that owners and operators provide a copy of the software to the department to facilitate review of the assessment;

3. An explanation of the input parameters required to determine tier 3 site-specific target levels and how the necessary data for each parameter will be obtained. For each input parameter, owners and operators shall provide justification for the selected value to be used; and

4. An explanation of missing or inadequate data that require additional fieldwork and a detailed scope of work for the collection of this data.

(B) Upon approval of the tier 3 risk assessment work plan by the department, owners and operators shall implement the approved work plan. Any changes to the work plan made subsequent to the department's approval shall be documented in writing and submitted to and approved by the department.

(C) Owners and operators shall determine revised representative concentrations for relevant chemicals of concern and exposure pathways if additional data is available.

(D) Owners and operators shall determine human health risk or develop tier 3 site-specific target levels, or both, for the complete exposure pathways using the models and data in accordance with the approved work plan.

1. Human health risk. Owners and operators shall determine human health risk in accordance with section 10 CSR 26-2.077(11) and compare estimated human health risk to target risk levels in section 10 CSR 26-2.077(4).

2. Tier 3 site-specific target levels. Owners and operators shall develop tier 3 site-specific target levels in accordance with section 10 CSR 26-2.077(11) and compare representative concentrations for chemicals of concern to the tier 3 site-specific target levels for each complete exposure pathway at the site.

3. If lead is a chemical of concern at the site, owners and operators may evaluate human health risk or develop tier 3 site-specific target levels for lead using the United States Environmental Protection Agency's Integrated Exposure Uptake Biokinetic Model for Lead in Children or another model approved by the department.

(E) If one (1) or more representative concentrations for chemicals of concern exceed the tier 3 site-specific target levels or the estimated human health risks exceed the target risk levels, owners and operators shall develop a corrective action plan based on the default target levels, tier 1 risk-based target levels, tier 2 site-specific target levels, or tier 3 site-specific target levels or target risk levels.

(F) Owners and operators shall submit a risk assessment report for approval by the department that documents the tier 3 risk assessment and clearly describes the data and methodology used, key assumptions, and results. Any deviation from the approved work plan, the rationale for the deviation, and approval by the department shall be clearly documented in the risk assessment report.

(G) Subject to the conditions in section 10 CSR 26-2.082(4), owners and operators may request that the department make a no further remedial action determination for the site if the representative concentration for all chemicals of concern and all complete exposure pathways are less than the tier 3 site-specific target levels or the estimated human health risks are less than target risk levels. If a determination of no further remedial action is requested based on the results of the tier 3 risk assessment, the risk assessment report shall include documentation necessary to support the determination.

(5) Ecological Risk Assessment. Owners and operators shall assess risks posed by chemicals of concern at the site to ecological receptors in accordance with section 10 CSR 26-2.075(17).

(A) Level 2 Ecological Risk Assessment. Owners and operators shall compare maximum or representative concentrations for chemicals of concern in soil, groundwater, surface water, or sediment with applicable standards or criteria protective of ecological receptors available in literature and approved by the department or to site-specific target levels developed using an appropriate methodology approved by the department.

1. If one (1) or more maximum or representative concentrations for chemicals of concern in soil, groundwater, surface water, or sediment exceed the applicable standards or criteria, or the level 2 site-specific target levels if applicable, owners and operators shall—

A. Develop a corrective action plan based on the applicable standards or criteria, or the level 2 site-specific target levels if applicable; or

B. Conduct a level 3 ecological risk assessment.

(B) Level 3 Ecological Risk Assessment. Owners and operators shall conduct a detailed site-specific evaluation as per current United States Environmental Protection Agency guidance for ecological risk assessment. Owners and operators shall develop a detailed technical work plan that shall be submitted to and approved by the department prior to initiating the level 3 ecological risk assessment.

1. If the level 3 ecological risk assessment determines that the risk to ecological receptors at the site exceeds levels deemed acceptable by the department, owners and operators shall develop a corrective action plan to protect ecological receptors.

AUTHORITY: sections 319.109 and 319.137, RSMo Supp. 2008. Original rule filed Feb. 13, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately \$5,247,600 in the aggregate and nine hundred nineteen thousand, eight hundred eighty-six dollars (\$919,886) annually.

PRIVATE COST: This proposed rule will cost private entities three hundred forty-three thousand, five hundred twenty-four dollars (\$343,524) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name: 10 CSR 26-2.078 Tiered Risk Assessment Process
Type of Rulemaking: Proposed rule

IV. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	\$919,886 ¹ (annual cost)
Petroleum Storage Tank Insurance Fund	\$5,247,600 (aggregate)

IV. Worksheet

See calculations in Section IV below.

IV. Assumptions

Proposed rule 10 CSR 26-2.078 sets forth a three-tiered process for the assessment of risk associated with a given site. The rule is applicable to any site at which chemicals of concern exceed Default Target Levels (DTLs). With regard to such sites, the rule gives underground storage tank owners and operators the option of either conducting corrective action to reduce concentrations of chemicals of concern to meet the DTLs or to assess risk as per the proposed rule.

The rule allows risk to be evaluated at progressively higher tiers, beginning with Tier 1. The methodology for assessing risk is the same at Tiers 1 and 2 except for the target levels to which contaminant concentrations are compared. At Tier 1, applicable target levels are the Tier 1 Risk-Based Target Levels (RBTLs) found in guidance developed by the department (and incorporated by reference into rule). At Tier 2, target levels are developed based on the use of site-specific fate and transport data in the same models used to develop the Tier 1 RBTLs. The methodology for assessing risk at Tier 3 may be different than that employed at Tiers 1 and 2. By design, the proposed rule does not define nor limit the methods that may be used at Tier 3, except that whatever method is proposed must first be approved by the department.

The following summarizes assumptions used in estimating costs for a Tier 1 risk assessment.

- Assume contaminants exceed DTLs and the owner or operator does not intend to conduct corrective action to reduce contaminant concentrations to meet the DTLs

¹ This is the total annual cost to operate the department's Hazardous Waste Program, Tanks Section, Remediation Unit. The Remediation Unit administers the application of all Title 10, Division 26, Chapter 2 rules pertaining to releases from underground storage tanks, not just proposed rule 10 CSR 26-2.078.

- Prior to assessing risk, a site conceptual model must be developed as per proposed rule 10 CSR 26-2.076; for the purposes of this fiscal note, the cost associated with site conceptual model development is not considered. That cost is accounted for in the fiscal note for proposed rule 10 CSR 26-2.076.
- To conduct a Tier 1 risk assessment, the owner or operator must determine the type of soil at the site as per proposed rule 10 CSR 26-2.076. For the purposes of this fiscal note, the cost associated with the soil type determination is not considered. That cost is accounted for in the fiscal note for proposed rule 10 CSR 26-2.076.
- A Tier 1 risk assessment uses site characterization data, including that found in the site conceptual model and the soil type determination, to assess risks to human health and the environment. The assessment entails comparing applicable Tier 1 RBTLs to maximum or representative concentrations for each complete exposure pathway.
- Once the risk assessment is complete, the owner or operator must submit a Tier 1 risk assessment report to the department (unless the owner/operator proceeds immediately to Tier 2, in which case a combined Tier 1/Tier 2 risk assessment report may be submitted)
 - Assume professional staff pay rate of \$80 per hour
 - Assume compilation of relevant data and comparison of RBTLs to contaminant concentrations requires 20 hours
 - $\$80 \times 20 = \$1,600$
 - Assume risk assessment report requires 20 hours to complete
 - $\$80 \times 20 = \$1,600$
- Total per site cost to conduct a Tier 1 risk assessment:
 - $\$3,200 + \$1,600 = \$3,200$ per site

The following summarizes assumptions used in estimating costs for a Tier 2 risk assessment

- If the Tier 1 risk assessment shows contaminant concentrations exceed applicable RBTLs, owners and operators may either develop a Corrective Action Plan to address excess risk or proceed with a Tier 2 risk assessment. For this purposes of this fiscal note and because corrective action costs are accounted for in the fiscal note for proposed rule 10 CSR 26-2.079, corrective action costs are not presented in this fiscal note. Rather, the assumption is that a Tier 2 risk assessment is conducted.
- As with the Tier 1 risk assessment, costs related to site conceptual model development are not included in this fiscal note. In addition, soil type determinations are not relevant at Tier 2 and associated costs are not considered in this fiscal note.
- A Tier 2 risk assessment utilizes fate and transport data collected at the site in question. The cost to collect the relevant data is not considered in this fiscal note as such costs are accounted for in the fiscal note for proposed rule 10 CSR 26-2.077.
- The site-specific fate and transport data must be entered into computational software or used in calculations completed by hand. In either case, the following assumptions are considered in estimating the cost to develop the Tier 2 SSTLs:
 - Assume professional staff pay rate of \$80 per hour
 - Assume compilation of relevant data and entering into computational software or running the calculations by hand requires 20 hours.

- Development of Tier 2 SSTLs:
 - $\$80 \times 20 = \$1,600$
- Once the SSTLs have been developed, owners and operators must compare the SSTLs to contaminant concentrations for all complete exposure pathways. Once the comparison is complete, owners and operators must prepare a risk assessment report for submittal to the department.
 - Assume compilation of relevant data and comparison of SSTLs to contaminant concentrations requires 20 hours.
 - $\$80 \times 20 = \$1,600$
 - Assume risk assessment report requires 20 hours to complete
 - $\$80 \times 20 = \$1,600$
- Total per site cost to conduct a Tier 2 risk assessment:
 - $\$1,600 + \$1,600 + \$1,600 = \$4,800$ per site

The following summarizes assumptions used in estimating costs for a Tier 3 risk assessment

- Tier 3 risk assessments are based on the same site characterization and site conceptual model data used at Tiers 1 and 2. As above, costs associated with site characterization and site conceptual model development are accounted for in the fiscal note for proposed rule 10 CSR 26-2.076 and are therefore not included in this fiscal note.
- At Tier 3, owners and operators may use methods different from those used at Tiers 1 and 2 to assess human health and environmental risk associated with a given site. The only qualification is that the proposed method be approved by the department prior to initiation. To facilitate such approval, the proposed rule requires owners and operators to develop a Tier 3 risk assessment work plan to the department. The following summarizes assumptions used in estimating costs to develop that work plan.
 - Assume professional pay rate of \$80 per hour
 - Assume work plan development requires 20 hours
 - $\$80 \times 20 = \$1,600$
- By design, Tier 3 allows owners and operators to use methods other than used at Tiers 1 and 2 with the only limitation being that the proposed model must be approved by the department. Given this broad flexibility, accurately estimating the cost of a Tier 3 risk assessment is very difficult. For the purposes of this fiscal note, the department assumes the cost range for a Tier 3 risk assessment to be from \$5,000 to \$20,000 per site and the average cost - \$12,500 is used. This amount includes both the cost to run whatever model the owner or operator has selected and to develop and submit the Tier 3 risk assessment report.
- Total per site cost to conduct a Tier 3 risk assessment:
 - $\$1,600 + \$12,500 = \$14,100$ per site

Cost of proposed rule 10 CSR 26-2.078 to the Petroleum Storage Tank Insurance Fund (PSTIF)
The aggregate cost to PSTIF to meet the requirements of proposed rule 10 CSR 26-2.078 is as follows:

- The PSTIF is responsible for 1,254 underground storage tank release sites²
- Assume Tier 1 risk assessment conducted at 44% or 552 sites
- Assume Tier 2 risk assessment conducted at 55% or 690 sites
- Assume Tier 3 risk assessment conducted at 1% or 12 sites
 - $(\$3,200 \times 552) + (\$4,800 \times 690) + (12 \times \$14,100) =$
 $(\$1,766,400) + (\$3,312,000) + (\$169,200) = \$5,247,600$
- Total cost of proposed rule 10 CSR 26-2.078 to PSTIF: \$5,247,600

Cost of proposed rule to Department of Natural Resources

The Department of Natural Resources' Hazardous Waste Program, Tanks Section, Remediation Unit oversees the application of all Title 10, Division 26, Chapter 2 rules related to releases from underground storage tanks. The Remediation Unit includes two Environmental Specialist IVs, one Environmental Engineer I/II, and eight Environmental Specialist I/II/III. The following table summarizes the annual cost to operate the Remediation Unit. The costs are not solely associated with the Unit's administration of proposed rule 10 CSR 26-2.078; rather, it represents the cost to the department to administer all Division 26, Chapter 2 rules applicable to releases from regulated underground storage tanks.

<u>Position</u>	<u>Number</u>	<u>Bi-monthly Rate</u>	<u>Annual Rate</u>
Environmental Engineer II	1	\$1,966.00	\$47,184
Environmental Specialist III	8	\$1,666	\$319,801
Environmental Specialist IV (Unit Chief)	1	\$1,806.00	\$43,344
Environmental Specialist IV (Technical)	1	\$2,004.00	\$48,084
Subtotal:	11		\$458,413
Fringe (42.9%)			\$196,659
E & E ³			\$64,207
Subtotal			719,279
Indirect (27.89%)			\$200,607
Total Costs for One Year - Existing Funding			\$919,886

The estimated annual cost of the proposed rule to the department is \$919,886. Note, however, this cost is applicable to the department's oversight of all rules pertaining to releases from underground storage tanks in Title 10, Division 26, Chapter 2, not just this rule.

² December 15, 2008, State UST Fund Soundness Data Form, line 21, completed by Patrick Eriksen, Williams & Company, third party administrator of PSTIF

³ \$5,837 per employee – DNR ongoing E & E standard FY2009

NOTE: Proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082 present a process referred to as Risk-Based Corrective Action or RBCA. Proposed rule 10 CSR 26-2.075 presents a general overview of that process. The remaining rules expand on specific requirements of the process. In some cases, requirements are found in more than one rule. Where that occurs, efforts have been made to avoid duplication of costs in the fiscal notes. However, some costs might be accounted for in more than one fiscal note. Also, a number of assumptions and estimations are necessary in producing these fiscal notes. For these reasons, adding up the cost of each fiscal note may not necessarily produce an accurate cost of the entire RBCA process presented in proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

FISCAL NOTE**PRIVATE COST****I. RULE NUMBER**

Rule Number and Name: 10 CSR 26-2.078 Tiered Risk Assessment Process
Type of Rulemaking: Proposed rule

II. SUMMARY OF FISCAL IMPACT

Classification by types of the business entities which would likely be affected:	Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
<ul style="list-style-type: none"> • Retail automotive fueling stations • Fleet operations • Automotive service and repair facilities • Manufacturing operations • Other owners and operators of underground storage tank systems 	>2,000 ¹	\$343,524 ²

III. Worksheet

See calculations in Section IV below.

¹ The Missouri Department of Natural Resources tanks database lists approximately 1,900 registered underground storage tank owners; the department assumes that several hundred additional owners exist who have not registered with the department.

² Approximately 94% of the total number of underground storage tank release sites are insured by the Petroleum Storage Tank Insurance Fund (PSTIF). Therefore, assuming PSTIF covers each insured party's full cost to comply with this rule, the aggregate private entity cost to comply with this rule is estimated as 6% of the total estimated cost of compliance of \$5,725,400. The remaining 94% of the cost of compliance will be borne by PSTIF, as explained in the public cost fiscal note for this rule.

IV. Assumptions

Proposed rule 10 CSR 26-2.078 sets forth a three-tiered process for the assessment of risk associated with a given site. The rule is applicable to any site at which chemicals of concern exceed Default Target Levels (DTLs). With regard to such sites, the rule gives underground storage tank owners and operators the option of either conducting corrective action to reduce concentrations of chemicals of concern to meet the DTLs or to assess risk as per the proposed rule.

The rule allows risk to be evaluated at progressively higher tiers, beginning with Tier 1. The methodology for assessing risk is the same at Tiers 1 and 2 except for the target levels to which contaminant concentrations are compared. At Tier 1, applicable target levels are the Tier 1 Risk-Based Target Levels (RBTLs) found in guidance developed by the department (and incorporated by reference into rule). At Tier 2, target levels are developed based on the use of site-specific fate and transport data in the same models used to develop the Tier 1 RBTLs. The methodology for assessing risk at Tier 3 may be different than that employed at Tiers 1 and 2. By design, the proposed rule does not define nor limit the methods that may be used at Tier 3, except that whatever method is proposed must first be approved by the department.

The following summarizes assumptions used in estimating costs for a Tier 1 risk assessment.

- Assume contaminants exceed DTLs and the owner or operator does not intend to conduct corrective action to reduce contaminant concentrations to meet the DTLs
- Prior to assessing risk, a site conceptual model must be developed as per proposed rule 10 CSR 26-2.076; for the purposes of this fiscal note, the cost associated with site conceptual model development is not considered. That cost is accounted for in the fiscal note for proposed rule 10 CSR 26-2.076.
- To conduct a Tier 1 risk assessment, the owner or operator must determine the type of soil at the site as per proposed rule 10 CSR 26-2.076. For the purposes of this fiscal note, the cost associated with the soil type determination is not considered. That cost is accounted for in the fiscal note for proposed rule 10 CSR 26-2.076.
- A Tier 1 risk assessment uses site characterization data, including that found in the site conceptual model and the soil type determination, to assess risks to human health and the environment. The assessment entails comparing applicable Tier 1 RBTLs to maximum or representative concentrations for each complete exposure pathway.
- Once the risk assessment is complete, the owner or operator must submit a Tier 1 risk assessment report to the department (unless the owner/operator proceeds immediately to Tier 2, in which case a combined Tier 1/Tier 2 risk assessment report may be submitted)
 - Assume professional staff pay rate of \$80 per hour

- Assume compilation of relevant data and comparison of RBTLS to contaminant concentrations requires 20 hours
 - $\$80 \times 20 = \$1,600$
- Assume risk assessment report requires 20 hours to complete
 - $\$80 \times 20 = \$1,600$
- Total per site cost to conduct a Tier 1 risk assessment:
 - $\$3,200 + \$1,600 = \$3,200$ per site

The following summarizes assumptions used in estimating costs for a Tier 2 risk assessment

- If the Tier 1 risk assessment shows contaminant concentrations exceed applicable RBTLS, owners and operators may either develop a Corrective Action Plan to address excess risk or proceed with a Tier 2 risk assessment. For this purposes of this fiscal note and because corrective action costs are accounted for in the fiscal note for proposed rule 10 CSR 26-2.079, corrective action costs are not presented in this fiscal note. Rather, the assumption is that a Tier 2 risk assessment is conducted.
- As with the Tier 1 risk assessment, costs related to site conceptual model development are not included in this fiscal note. In addition, soil type determinations are not relevant at Tier 2 and associated costs are not considered in this fiscal note.
- A Tier 2 risk assessment utilizes fate and transport data collected at the site in question. The cost to collect the relevant data is not considered in this fiscal note as such costs are accounted for in the fiscal note for proposed rule 10 CSR 26-2.077.
- The site-specific fate and transport data must be entered into computational software or used in calculations completed by hand. In either case, the following assumptions are considered in estimating the cost to develop the Tier 2 SSTLS:
 - Assume professional staff pay rate of \$80 per hour
 - Assume compilation of relevant data and entering into computational software or running the calculations by hand requires 20 hours.
 - Development of Tier 2 SSTLS:
 - $\$80 \times 20 = \$1,600$
- Once the SSTLS have been developed, owners and operators must compare the SSTLS to contaminant concentrations for all complete exposure pathways. Once the comparison is complete, owners and operators must prepare a risk assessment report for submittal to the department.
 - Assume compilation of relevant data and comparison of SSTLS to contaminant concentrations requires 20 hours.
 - $\$80 \times 20 = \$1,600$
 - Assume risk assessment report requires 20 hours to complete
 - $\$80 \times 20 = \$1,600$
- Total per site cost to conduct a Tier 2 risk assessment:
 - $\$1,600 + \$1,600 + \$1,600 = \$4,800$ per site

The following summarizes assumptions used in estimating costs for a Tier 3 risk assessment

- Tier 3 risk assessments are based on the same site characterization and site conceptual model data used at Tiers 1 and 2. As above, costs associated with site characterization and site conceptual model development are accounted for in the fiscal note for proposed rule 10 CSR 26-2.076 and are therefore not included in this fiscal note.
- At Tier 3, owners and operators may use methods different from those used at Tiers 1 and 2 to assess human health and environmental risk associated with a given site. The only qualification is that the proposed method be approved by the department prior to initiation. To facilitate such approval, the proposed rule requires owners and operators to develop a Tier 3 risk assessment work plan to the department. The following summarizes assumptions used in estimating costs to develop that work plan.
 - Assume professional pay rate of \$80 per hour
 - Assume work plan development requires 20 hours
 - $\$80 \times 20 = \$1,600$
- By design, Tier 3 allows owners and operators to use methods other than used at Tiers 1 and 2 with the only limitation being that the proposed model must be approved by the department. Given this broad flexibility, accurately estimating the cost of a Tier 3 risk assessment is very difficult. For the purposes of this fiscal note, the department assumes the cost range for a Tier 3 risk assessment to be from \$5,000 to \$20,000 per site and the average cost - \$12,500 is used. This amount includes both the cost to run whatever model the owner or operator has selected and to develop and submit the Tier 3 risk assessment report.
- Total per site cost to conduct a Tier 3 risk assessment:
 - $\$1,600 + \$12,500 = \$14,100$ per site

Aggregate private entity cost to comply with proposed rule 10 CSR 26-2.078

- Assume 1,366 sites³
- Assume a Tier 1 risk assessment is performed at 44% or 601 sites
- Assume a Tier 2 risk assessment is performed at 55% or 751 sites
- Assume a Tier 3 risk assessment is performed at 1% or 14 sites
 - $(\$3,200 \times 601) + (\$4,800 \times 751) + (\$14,100 \times 14) =$
 $\$1,923,200 + \$3,604,800 + \$197,400 = \$5,725,400$

Total aggregate private entity cost of proposed rule 10 CSR 26-2.078: \$5,725,400

³ Missouri Department of Natural Resources Tanks Database indicates 1,366 active release sites as of February 24, 2009. Approximately 94% of the sites are insured by the Petroleum Storage Tank Insurance Fund.

However, approximately 94% of underground storage tank sites are insured by the Petroleum Storage Tank Insurance Fund (PSTIF). Therefore, assuming PSTIF covers each insured party's full cost to comply with this rule, the aggregate private entity cost to comply with this rule is estimated as 6% of the total estimated cost of compliance. The remaining 94% of the cost of compliance will be borne by PSTIF, as explained in the public cost fiscal note for this rule.

Total aggregate private entity cost to meet the requirements of proposed rule 10 CSR 26-2.078 in consideration of 94% of sites being insured by PSTIF:

- $\$5,725,400 \times 0.06 = \$343,524$

NOTE: Proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082 present a process referred to as Risk-Based Corrective Action or RBCA. Proposed rule 10 CSR 26-2.075 presents a general overview of that process. The remaining rules expand on specific requirements of the process. In some cases, requirements are found in more than one rule. Where that occurs, efforts have been made to avoid duplication of costs in the fiscal notes. However, some costs might be accounted for in more than one fiscal note. Also, a number of assumptions and estimations are necessary in producing these fiscal notes. For these reasons, adding up the cost of each fiscal note may not necessarily produce an accurate cost of the entire RBCA process presented in proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 26—Petroleum and Hazardous Substance
Storage Tanks
Chapter 2—Underground Storage Tanks—Technical
Regulations

PROPOSED RULE

10 CSR 26-2.079 Corrective Action Plan

PURPOSE: This rule explains when a corrective action plan is required and sets forth requirements regarding what the plan must contain and how risk-based target levels are determined when corrective action is by excavation.

(1) Owners and operators shall undertake corrective actions necessary to manage risk posed by chemicals of concern to human health, public welfare, and the environment at a site. The corrective actions shall prevent or reduce exposure to chemicals of concern so that acceptable risk levels are not exceeded under current and reasonably anticipated future land use conditions. Corrective actions shall manage risk at a site by achieving the following goals, either individually or in combination as appropriate:

(A) Reduce concentrations of chemicals of concern in affected media;

(B) Prevent transport of chemicals of concern from affected media to receptors;

(C) Preclude the presence of a receptor at a site;

(D) Restrict certain receptor activities at a site; and/or

(E) Ensure the presence of contamination above residential target levels and all related activity and use limitations are disclosed to future owners and users of the property on which the contamination is found and to which the activity and use limitations pertain.

(2) Owners and operators shall develop a corrective action plan if one (1) or more of the following conditions apply to a site:

(A) The maximum or representative concentration of one (1) or more chemicals of concern for one (1) or more complete exposure pathways exceeds applicable target levels;

(B) The risk level of a chemical of concern exceeds acceptable risk levels specified at section 10 CSR 26-2.077(4);

(C) The maximum or representative concentration of one (1) or more chemicals of concern for each complete route of exposure does not exceed applicable target levels, but the risk assessment was based on site-specific assumptions that must be preserved via the application of long-term stewardship measures in accordance with 10 CSR 26-2.081; or

(D) One (1) or more chemicals of concern will remain on a property at concentrations above residential target levels and the property does not include one (1) or more active petroleum underground storage tanks (USTs).

(3) **Adjacent or Nearby Properties.** At sites where chemicals of concern have migrated onto one (1) or more adjacent or nearby properties at concentrations above default target levels or other residential levels approved by the department, owners and operators shall either—

(A) Reduce concentrations of chemicals of concern in soil or groundwater on the adjacent or nearby property or properties to below default target levels or other residential target levels approved by the department; or

(B) Based on the department's reasonably anticipated future use decision for the adjacent or nearby property or properties, either—

1. Reduce concentrations of chemicals of concern in soil or groundwater on the adjacent or nearby property or properties to below residential or non-residential target levels and, if residential target levels are not met, mitigate remaining and contingent risk through the application of long-term stewardship measures; or

2. With the approval of the department, take no remedial action on the adjacent or nearby property or properties, but mitigate risks solely through the application of long-term stewardship measures;

(C) Owners and operators shall obtain the approval of the owner of the adjacent or nearby property for any actions to be taken on their property and implementation of long-term stewardship measures that pertain to or affect their property; or

(D) If denied access by the owner of the adjacent or nearby property, owners and operators shall document to the department that all applicable target or risk levels have been met at or near the boundary of the source property, and that actions have been taken to ensure that further migration off the source property of chemicals of concern at concentrations exceeding the default target levels or other residential target levels approved by the department will not occur in the future.

(4) **Corrective Action Plan.** Owners and operators shall develop a corrective action plan that encompasses all activities necessary to manage risk to human health, public welfare, and the environment at a site. The corrective action plan shall be submitted for approval by the department.

(A) The corrective action plan shall be designed to ensure that—

1. Site conditions relative to chemicals of concern are protective of human health and the environment under current and reasonably anticipated future conditions;

2. Assumptions made in the estimation of risk and development of applicable target levels are not violated in the future, and that concentrations of chemicals of concern in groundwater and the extent of groundwater contamination are stable or decreasing; and

3. Recoverable light non-aqueous phase liquid (LNAPL) is not present in the soil or groundwater in volumes that will result in any of the following conditions:

A. Expansion of the area of the LNAPL in soil or groundwater;

B. An expanding groundwater solute plume;

C. An increase in concentrations of one (1) or more chemicals of concern in groundwater to levels above applicable target levels;

D. Unacceptable risk to human health or the environment; or

E. Explosive, fire, or other acute hazards.

(B) The corrective action plan shall include, but need not necessarily be limited to, one (1) or a combination of the following:

1. Active remedial actions to reduce concentrations of chemicals of concern to meet applicable target levels;

2. Use of monitored natural attenuation to reduce concentrations of chemicals of concern to meet applicable target levels and contain the groundwater solute plume;

3. The installation of engineered controls to limit access to or migration of chemicals of concern in soil or groundwater; and/or

4. Application of long-term stewardship measures to eliminate certain exposure pathways or receptors or to ensure that exposure pathways remain incomplete under current and reasonably anticipated future uses and conditions.

(C) The corrective action plan submitted to the department shall address each of the following elements, including a detailed explanation for each element or an explanation of why such element is not necessary to protect human health and the environment:

1. Why the corrective action plan was prepared and the specific objectives of the corrective action plan;

2. The findings, conclusions, and recommendations of the department-accepted risk assessment report;

3. The technologies or approaches to be used to reduce mass, concentration, or mobility of chemicals of concern to meet the applicable target levels for the site or the specific engineered activities to be used to mitigate excess risks;

4. Monitoring to demonstrate plume stability and, if applicable, the effectiveness of monitored natural attenuation;

5. Data to be collected, the purposes for which the data will be

collected, and procedures for collection, documentation, analysis, and reporting during the implementation of the corrective action plan;

6. The type of long-term stewardship measure or measures that will be used, its intended purpose, and how and when it will be executed; the long-term viability of the long-term stewardship measure; any actions necessary to ensure such long-term viability; and the type of documentation that will be provided to demonstrate that the long-term stewardship measure is and will remain in effect;

7. A schedule for implementation of the corrective action plan, including all major milestones and all deliverables to the department;

8. The specific criteria to be measured or otherwise used to determine whether corrective actions are effective and the corrective action plan has been successfully implemented;

9. Contingency plans that will be implemented if the selected remedy fails to meet the overall objectives of the corrective action plan in a timely manner; and

10. The public participation and notice requirements in 10 CSR 26-2.080 or an explanation of how such requirements have been met.

(D) The department will approve the corrective action plan as submitted or provide comments. Owners and operators shall address the department's comments and, upon receipt of approval, shall implement the corrective action plan.

(5) Management of LNAPL. Owners and operators shall comply with the requirements of 10 CSR 26-2.074. LNAPL removal initiated under 10 CSR 26-2.074 shall continue until a work plan for LNAPL recovery is approved by the department and implemented by the owner and/or operator.

(A) LNAPL Recovery Work Plan. Owners and operators shall develop a work plan for LNAPL recovery at the site based on the information developed in accordance with section 10 CSR 26-2.076(18). Owners and operators shall submit the work plan to the department for approval prior to implementation. Owners and operators shall implement the work plan within forty-five (45) days of approval by the department. The LNAPL recovery work plan developed by owners and operators shall—

1. Explain which method of LNAPL removal is most appropriate given site-specific conditions and how the method will be implemented at the site;

2. Explain the extent to which removal is believed to be practicable given the chosen method;

3. Explain the extent to which LNAPL removal is believed to be warranted based on risks posed by the LNAPL to human and ecological receptors;

4. Identify the metrics to be used to assess removal system effectiveness and explain the type and scope of monitoring that will be conducted to assess removal system effectiveness; and

5. Include a schedule for implementation and operation of the removal system and for monitoring system effectiveness.

(B) LNAPL Recovery. The extent of LNAPL recovery required at a site shall be determined by the department based on practicability of LNAPL recovery and the actual and potential risk posed by chemicals of concern in the LNAPL to human and ecological receptors.

1. Once all acute risks related to the LNAPL have been mitigated in accordance with 10 CSR 26-2.071 and 10 CSR 26-2.074, owners and operators shall remove LNAPL to the extent that—

A. The LNAPL and associated dissolved and vapor-phase plumes are stable or decreasing with respect to both area and concentrations of chemicals of concern; and

B. The LNAPL and associated dissolved and vapor-phase plumes do not pose unacceptable risk to human or ecological receptors.

2. The department will consider information provided by owners and operators regarding the practicability of LNAPL recovery and actual and potential risk the LNAPL poses to human and ecological receptors in determining the extent to which LNAPL recovery is required by 10 CSR 26-2.074.

3. LNAPL recovery in accordance with the provisions of the approved LNAPL recovery work plan shall continue until the goals of the work plan, as approved by the department, have been attained, unless the department determines based on a review of monitoring or other information, and informs owners and operators in writing, that the method employed will not achieve the goals or will not do so in a timely manner, in which case owners and operators shall evaluate the situation and propose an alternative recovery method in a work plan submitted to the department. The alternative remedy shall not be implemented until approved by the department. Owners and operators shall submit LNAPL recovery status reports to the department on a quarterly basis or other schedule as approved by the department, beginning three (3) months after implementation of the approved LNAPL recovery work plan.

4. Once LNAPL removal limits or goals have been reached, owners and operators shall submit a final LNAPL removal report to the department. The final report must include conclusions and recommendations regarding any remaining LNAPL, including the type of long-term stewardship measure that will be used to provide information about and control risks associated with remaining LNAPL.

(C) At sites where concentrations of chemicals of concern in excess of residential target levels will remain in place following the department-approved cessation of LNAPL removal activities, a long-term stewardship measure approved by the department shall be recorded in the chain of title of the property on which the concentrations of chemicals of concern in excess of residential target levels will remain.

(6) Application of Risk-Based Target Levels to Excavated Areas. At sites where contaminated soils are to be removed by excavation and replaced with dissimilar fill material, owners and operators shall evaluate the type of fill that will be used and determine the target levels that will apply to the floor of the excavation prior to initiating excavation activities.

(A) The target levels for the area to be excavated and the process and methods by which they were developed shall be explained in the corrective action plan submitted to the department for review and approval prior to beginning corrective action activities.

(B) If the excavation is to be filled with granular material such as gravel or sand, the tier 1 risk-based target levels for soil type one shall apply to the floor of the excavated area, unless the department determines that soil type one is not representative of the fill to be used in which case owners and operators shall develop site-specific target levels for the fill and obtain the approval of the department for such site-specific target levels prior to placement of the fill.

(C) If the excavation is to be filled with soil, target levels for the excavated area may be determined by one (1) of the following methods:

1. Perform a soil type determination for the fill soil in accordance with section 10 CSR 26-2.076(11) and identify the tier 1 risk-based target levels applicable to the excavated and backfilled area based on the results of the soil type determination. The soil used as fill shall be compacted upon placement and the moisture content managed to ensure that, upon placement, the properties of the soil remain consistent with the corresponding soil type properties; or

2. Develop tier 2 site-specific target levels for the soil to be used as fill and the floor of the excavated area based on analysis of specific soil properties for the soil to be used as fill in accordance with section 10 CSR 26-2.076(12). The soil used as fill shall be compacted upon placement and the moisture content managed to ensure that, upon placement, the properties of the soil remain consistent with the corresponding soil properties determined by analysis.

(7) Completion of Corrective Action. Upon successful implementation and completion of corrective actions required by the approved corrective action plan, owners and operators shall submit a corrective action plan completion report to the department for approval.

(A) The corrective action plan completion report shall include:

1. Documentation of completion of all elements of the corrective action plan listed in subsection (4)(C) of this rule;

2. A request for a determination of no further remedial action for the site by the department subject to the conditions in section 10 CSR 26-2.082(4); and

3. If applicable, a request to plug and abandon all nonessential monitoring wells related to the environmental activities at the site.

(B) Corrective action activities shall continue until the department issues a no further remedial action determination for the site or provides written authorization to terminate the corrective action plan.

AUTHORITY: sections 319.109 and 319.137, RSMo Supp. 2008. Material in this rule originally filed as 10 CSR 20-10.066. Original rule filed Feb. 13, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately \$46,815,470 in the aggregate and nine hundred nineteen thousand, eight hundred eighty-six dollars (\$919,886) annually.

PRIVATE COST: This proposed rule will cost private entities \$3,060,659 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

FISCAL NOTE**PUBLIC COST****I. RULE NUMBER**

Rule Number and Name: 10 CSR 26-2.079 Corrective Action Plan
Type of Rulemaking: Proposed rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	\$919,886 annual cost ¹
Petroleum Storage Tank Insurance Fund	\$46,815,740 aggregate cost ²

III. Worksheet

See calculations in Section IV below.

IV. AssumptionsGeneral

Proposed rule 10 CSR 26-02.079 requires underground storage tank owners and operators to undertake corrective action when contaminants pose unacceptable risk to human health, public welfare, or the environment. Unacceptable risk can be addressed through one or more actions to reduce contaminant concentrations, prevent contaminant transport, preclude the presence of receptors at a site, restrict certain activities at a site, and ensure the presence of contamination above residential target levels is disclosed to future site owners and users. Because risk reduction can be accomplished by one or more of a variety of means, estimating an accurate and meaningful cost to comply with this proposed rule is difficult. The analysis below uses certain assumptions to provide at least one estimate of the cost to comply with the proposed rule.

Corrective Action Plan Development

The proposed rule requires owners and operators to develop a Corrective Action Plan (CAP). The plan must be designed to ensure site conditions are protective of human health and the environment, that assumptions made in estimating risk and developing target levels are not violated in the future, that contaminant concentrations in groundwater and the extent of groundwater contamination are stable or decreasing, and that light non-aqueous phase liquid (LNAPL) is not present in volumes that will result in unacceptable risk to human health or the environment. The plan must explain why the corrective action is necessary and what the objectives of the plan are, how risks will be reduced to acceptable levels, monitoring and data

¹ This is the total cost to operate the department's Hazardous Waste Program, Tanks Section, Remediation Unit. The Remediation Unit oversees the application of all Title 10, Division 26, Chapter 2 rules pertaining to releases from underground storage tanks, not just proposed rule 10 CSR 26-2.079.

² See footnotes

collection that will occur and why, the type of long-term stewardship that will be applied to mitigate remaining risks, a schedule, and other elements.

The following summarizes assumptions used in estimating the cost to develop a CAP:

- Assume professional pay rate of \$80 per hour
- Assume 20 hours required to analyze site characterization and risk assessment data to determine need for and identify appropriate type of corrective action
- Assume 20 hours to prepare CAP
- Total per site cost to develop CAP:
 - $(20 \times \$80) + (20 \times \$80) = \$3,200$

Management of LNAPL/Development of LNAPL Recovery Work Plan

When LNAPL is present at a site, owners and operators must develop a LNAPL recovery work plan. The work plan must identify the most appropriate recovery method in consideration of site-specific conditions, the extent to which recovery is practicable, and the extent to which recovery is warranted to protect human health and the environment. The plan must specify metrics for gauging recovery system effectiveness and include a schedule for system implementation and operation. In most cases where LNAPL is present, the LNAPL recovery work plan will be a part of the overall CAP for the site.

The following summarizes assumptions used in estimating the cost to develop a LNAPL recovery work plan.

- Assume professional pay rate of \$80 per hour
- Assume 20 hours to compile and analyze site characterization and risk assessment data relevant to characterize the extent and distribution of LNAPL and the risk it poses
- Assume 20 hours to determine the most effective recovery method
- Assume 8 hours to prepare the work plan
- Total per site cost to develop LNAPL recovery work plan:
 - $(20 + 20 + 8) \times \$80 = \$3,840$ per site

The cost to actually operate a LNAPL recovery system will vary significantly depending on site specific conditions including the volume of the LNAPL, the type of soil at the site, the geological conditions at and near the site, and the land use and receptors affected or potentially affected. For the purposes of this fiscal note, the following assumptions were used to estimate the cost to implement the LNAPL recovery work plan and operate for as long as necessary the recovery system.

- Assume professional pay rate of \$80 per hour
- Assume method of recovery is high-vacuum extraction
- Assume extent of LNAPL requires four extraction points
- Assume \$5,000 to install each extraction point
- Assume \$1,000 per extraction point per recovery event
- Assume 20 man-hours per extraction event
- Assume \$2,000 per extraction event to handle recovery LNAPL/water mix

- Assume 8 recovery events are required
- Assume 2 recovery reports and one final LNAPL recovery report
- Assume each recovery report requires 8 hours and the final report 16
 - Recovery events:
 $(\$5,000 \times 4) + ((\$1,000 \times 4) \times 8) + ((\$80 \times 20) \times 8) + (\$2,000 \times 8) =$
 $\$20,000 + \$32,000 + \$12,800 + \$16,000 = \$80,800$
 - Reporting:
 $((2 \times 8 \text{ hrs}) \times \$80/\text{hr}) + (\$80 \times 16) = \$2,560$
- Total per site cost for LNAPL recovery including reporting: $\$80,800 + \$2,560 = \$83,360$ per site

Implementation of Corrective Action Plan

Under the proposed rule, risk reduction may be accomplished through one or more of a variety of corrective action methods. For the purposes of this fiscal note, the assumed method of corrective action is excavation of contaminated soil followed by the injection of oxygen release compounds into groundwater to facilitate the biological degradation of petroleum contaminants. The following assumptions were used in estimating the cost of these corrective action activities.

- Assume professional pay rate of \$80 per hour
- Assume area of contamination requiring excavation is 50 feet by 50 feet by 15 feet or 1,389 cubic yards
- 1.5 cubic yards per ton: $1,389/1.5 = 926$ tons
- Assume \$50 per ton for excavation and disposal
- Assume \$20 per yard for backfill
- Assume 1,400 cubic yards backfill including cost of placement and compaction
- Assume 40 hours professional oversight
- Assume injection point spacing of one per 100 square feet or 25 total
- Assume injection point installation of \$200 per point
- Assume oxygen release compounds (or equivalent) cost of \$225 per point
- Assume 20 hours professional oversight each injection event
- Assume two injection events
- Assume four monitoring events using four wells to gauge effect of oxygen release compounds
- Assume \$500 per sample per well for monitoring
- Excavation per site cost
 - $(926 \text{ tons} \times \$50/\text{ton}) + (1,400 \text{ yds backfill} \times \$20/\text{yd}) + (\$80 \times 40) =$
 $\$46,300 + \$28,000 + \$3,200 = \$77,500$ total cost for excavation
- Chemical injection per site
 - $(\$200 \times 25) + ((\$225 \times 25) \times 2) + ((\$80 \times 20) \times 2) + ((\$500 \times 4) \times 4) =$
 $\$5,000 + \$11,250 + \$3,200 + \$8,000 = \$27,450$ total cost for chemical injection and monitoring
- Reporting
 - Assume two monitoring reports and one final report

- Assume 8 hours for each monitoring report and 16 for final CAP report
- $((8 \times 2) \times \$80) + (\$80 \times 16) = \$2,560$ total
- Plume stability monitoring
 - Assume 8 monitoring events using 6 wells
 - Assume \$500 per well per monitoring event
 - Assume 7 monitoring reports and one final report
 - Assume 8 hours for each monitoring report and 16 for final report
 - $((8 \text{ events} \times 6 \text{ wells}) \times \$500 \text{ per well}) = \$24,000$ for monitoring
 - $((7 \text{ reports} \times 8 \text{ hours}) \times \$80/\text{hour}) + (16 \text{ hours} \times \$80/\text{hour}) = \$5,760$ for reporting
- Total per site corrective action cost:
 - $\$77,500 + \$27,450 + \$2,560 + \$24,000 + \$5,760 = \$137,270$ per site
- Total estimated per site cost to comply with proposed rule 10 CSR 26-2.079 when LNAPL recovery required:
 - $\$3,200$ (CAP preparation) + $\$4,000$ (LNAPL work plan) + $\$83,360$ (LNAPL recovery and reporting) + $\$137,270$ (CAP implementation including monitoring and reporting) = $\$227,830$ total per site cost
- Total estimated per site cost to comply with proposed rule 10 CSR 26-2.079 when LNAPL recovery is not required:
 - $\$3,200 + \$137,270 = \$140,470$ per site

Cost of proposed rule 10 CSR 26-2.079 to the Petroleum Storage Tank Insurance Fund (PSTIF)

The PSTIF is responsible for 1,254 underground storage tank release sites³. Therefore, the aggregate cost to PSTIF to meet the requirements of proposed rule 10 CSR 26-2.079 is as follows:

- Assume 25% of 1,254 sites, or 314 sites, will require corrective action⁴
- Assume LNAPL recovery will be required at 10% of the 314 sites, or 31 sites; therefore, the LNAPL costs estimated above will not apply to 283 sites
- $(31 \times \$227,830) + (283 \times \$140,470) = \$7,062,730 + \$39,753,010 = \$46,815,740$
- The total estimated cost of proposed rule 10 CSR 26-2.079 to PSTIF is \$46,815,740

Cost of proposed rule to Department of Natural Resources

The Department of Natural Resources' Hazardous Waste Program, Tanks Section, Remediation Unit oversees the application of all Title 10, Division 26, Chapter 2 rules related to releases from underground storage tanks. The Remediation Unit includes two Environmental Specialist IVs, one Environmental Engineer I/II, and eight Environmental Specialist I/II/IIIs. The following table summarizes the cost to operate the Remediation Unit. The cost is not solely associated

³ December 15, 2008, State UST Fund Soundness Data Form, line 21, completed by Patrick Eriksen, Williams & Company, third party administrator of PSTIF

⁴ The actual percentage of sites that will require corrective action is unknown; based on the department's experience, approximately 25% of sites utilizing the RBCA process require corrective action. In addition, the extent – and therefore the cost – of corrective action varies widely from site to site. Readers of this fiscal note should not assume that the costs estimated in this fiscal note are applicable to all sites at which corrective action is required.

with the Unit's administration of proposed rule 10 CSR 26-2.079; rather, it represents the cost to the department to administer all Division 26, Chapter 2 rules applicable to releases from regulated underground storage tanks.

<u>Position</u>	<u>Number</u>	<u>Bi-monthly Rate</u>	<u>Annual Rate</u>
Environmental Engineer II	1	\$1,966.00	\$47,184
Environmental Specialist III	8	\$1,666	\$319,801
Environmental Specialist IV (Unit Chief)	1	\$1,806.00	\$43,344
Environmental Specialist IV (Technical)	1	\$2,004.00	\$48,084
Subtotal:	11		\$458,413
Fringe (42.9%)			\$196,659
E & E ⁵			\$64,207
Subtotal			719,279
Indirect (27.89%)			\$200,607
Total Costs for One Year - Existing Funding			\$919,886

The estimated annual cost of the proposed rule to the department is \$919,886. Note, however, this cost is applicable to the department's oversight of all rules pertaining to releases from underground storage tanks regulated by Title 10, Division 26, Chapter 2 rules, not just this rule.

NOTE: Proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082 present a process referred to as Risk-Based Corrective Action or RBCA. Proposed rule 10 CSR 26-2.075 presents a general overview of that process. The remaining rules expand on specific requirements of the process. In some cases, requirements are found in more than one rule. Where that occurs, efforts have been made to avoid duplication of costs in the fiscal notes. However, some costs might be accounted for in more than one fiscal note. Also, a number of assumptions and estimations are necessary in producing these fiscal notes. For these reasons, adding up the cost of each fiscal note may not necessarily produce an accurate cost of the entire RBCA process presented in proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

⁵ \$5,837 per employee – DNR ongoing E & E standard FY2009

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name: 10 CSR 26-2.079 Corrective Action Plan
Type of Rulemaking: Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Classification by types of the business entities which would likely be affected:	Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
<ul style="list-style-type: none">• Retail automotive fueling stations• Fleet operations• Automotive service and repair facilities• Manufacturing operations• Other owners and operators of underground storage tank systems	>2,000 ¹	\$3,060,659 ²

III. Worksheet

See calculations in Section IV below.

¹ The Missouri Department of Natural Resources tanks database lists approximately 1,900 registered underground storage tank owners; the department assumes that several hundred additional owners exist who have not registered with the department.

² See pg. 5 footnotes; in addition, approximately 94% of the total number of underground storage tank release sites are insured by the Petroleum Storage Tank Insurance Fund (PSTIF). Therefore, assuming PSTIF covers each insured party's full cost to comply with this rule, the aggregate private entity cost to comply with this rule is estimated as 6% of the total estimated cost of compliance of \$51,010,980.

IV. Assumptions

General

Proposed rule 10 CSR 26-02.079 requires underground storage tank owners and operators to undertake corrective action when contaminants pose unacceptable risk to human health, public welfare, or the environment. Unacceptable risk can be addressed through one or more actions to reduce contaminant concentrations, prevent contaminant transport, preclude the presence of receptors at a site, restrict certain activities at a site, and ensure the presence of contamination above residential target levels is disclosed to future site owners and users. Because risk reduction can be accomplished by one or more of a variety of means, estimating an accurate and meaningful cost to comply with this proposed rule is difficult. The analysis below uses certain assumptions to provide at least one estimate of the cost to comply with the proposed rule.

Corrective Action Plan Development

The proposed rule requires owners and operators to develop a Corrective Action Plan (CAP). The plan must be designed to ensure site conditions are protective of human health and the environment, that assumptions made in estimating risk and developing target levels are not violated in the future, that contaminant concentrations in groundwater and the extent of groundwater contamination are stable or decreasing, and that light non-aqueous phase liquid (LNAPL) is not present in volumes that will result in unacceptable risk to human health or the environment. The plan must explain why the corrective action is necessary and what the objectives of the plan are, how risks will be reduced to acceptable levels, monitoring and data collection that will occur and why, the type of long-term stewardship that will be applied to mitigate remaining risks, a schedule, and other elements.

The following summarizes assumptions used in estimating the cost to develop a CAP:

- Assume professional pay rate of \$80 per hour
- Assume 20 hours required to analyze site characterization and risk assessment data to determine need for and identify appropriate type of corrective action
- Assume 20 hours to prepare CAP
- Total per site cost to develop CAP:
 - $(20 \times \$80) + (20 \times \$80) = \$3,200$

Management of LNAPL/Development of LNAPL Recovery Work Plan

When LNAPL is present at a site, owners and operators must develop a LNAPL recovery work plan. The work plan must identify the most appropriate recovery method in consideration of site-specific conditions, the extent to which recovery is practicable, and the extent to which recovery is warranted to protect human health and the environment. The plan must specify metrics for gauging recovery system effectiveness and include a schedule for system implementation and operation. In most cases where LNAPL is present, the LNAPL recovery work plan will be a part of the overall CAP for the site.

The following summarizes assumptions used in estimating the cost to develop a LNAPL recovery work plan.

- Assume professional pay rate of \$80 per hour
- Assume 20 hours to compile and analyze site characterization and risk assessment data relevant to characterize the extent and distribution of LNAPL and the risk it poses
- Assume 20 hours to determine the most effective recovery method
- Assume 8 hours to prepare the work plan
- Total per site cost to develop LNAPL recovery work plan:
 - $(20 + 20 + 8) \times \$80 = \$3,840$ per site

The cost to actually operate a LNAPL recovery system will vary significantly depending on site specific conditions including the volume of the LNAPL, the type of soil at the site, the geological conditions at and near the site, and the land use and receptors affected or potentially affected. For the purposes of this fiscal note, the following assumptions were used to estimate the cost to implement the LNAPL recovery work plan and operate for as long as necessary the recovery system.

- Assume professional pay rate of \$80 per hour
- Assume method of recovery is high-vacuum extraction
- Assume extent of LNAPL requires four extraction points
- Assume \$5,000 to install each extraction point
- Assume \$1,000 per extraction point per recovery event
- Assume 20 man-hours per extraction event
- Assume \$2,000 per extraction event to handle recovery LNAPL/water mix
- Assume 8 recovery events are required
- Assume 2 recovery reports and one final LNAPL recovery report
- Assume each recovery report requires 8 hours and the final report 16
 - Recovery events:
 $(\$5,000 \times 4) + ((\$1,000 \times 4) \times 8) + ((\$80 \times 20) \times 8) + (\$2,000 \times 8) =$
 $\$20,000 + \$32,000 + \$12,800 + \$16,000 = \$80,800$
 - Reporting:
 $((2 \times 8 \text{ hrs}) \times \$80/\text{hr}) + (\$80 \times 16) = \$2,560$
- Total per site cost for LNAPL recovery including reporting: $\$80,800 + \$2,560 =$
 $\$83,360$ per site

Implementation of Corrective Action Plan

Under the proposed rule, risk reduction may be accomplished through one or more of a variety of corrective action methods. For the purposes of this fiscal note, the assumed method of corrective action is excavation of contaminated soil followed by the injection of oxygen release compounds into groundwater to facilitate the biological degradation of petroleum contaminants. The following assumptions were used in estimating the cost of these corrective action activities.

- Assume professional pay rate of \$80 per hour
- Assume area of contamination requiring excavation is 50 feet by 50 feet by 15 feet or 1,389 cubic yards
- 1.5 cubic yards per ton: $1,389/1.5 = 926$ tons
- Assume \$50 per ton for excavation and disposal
- Assume \$20 per yard for backfill
- Assume 1,400 cubic yards backfill including cost of placement and compaction
- Assume 40 hours professional oversight
- Assume injection point spacing of one per 100 square feet or 25 total
- Assume injection point installation of \$200 per point
- Assume oxygen release compounds (or equivalent) cost of \$225 per point
- Assume 20 hours professional oversight each injection event
- Assume two injection events
- Assume four monitoring events using four wells to gauge effect of oxygen release compounds
- Assume \$500 per sample per well for monitoring
- Excavation per site cost
 - $(926 \text{ tons} \times \$50/\text{ton}) + (1,400 \text{ yds backfill} \times \$20/\text{yd}) + (\$80 \times 40) =$
 $\$46,300 + \$28,000 + \$3,200 = \$77,500$ total cost for excavation
- Chemical injection per site
 - $(\$200 \times 25) + ((\$225 \times 25) \times 2) + ((\$80 \times 20) \times 2) + ((\$500 \times 4) \times 4) =$
 $\$5,000 + \$11,250 + \$3,200 + \$8,000 = \$27,450$ total cost for chemical injection and monitoring
- Reporting
 - Assume two monitoring reports and one final report
 - Assume 8 hours for each monitoring report and 16 for final CAP report
 - $((8 \times 2) \times \$80) + (\$80 \times 16) = \$2,560$ total
- Plume stability monitoring
 - Assume 8 monitoring events using 6 wells
 - Assume \$500 per well per monitoring event
 - Assume 7 monitoring reports and one final report
 - Assume 8 hours for each monitoring report and 16 for final report
 - $((8 \text{ events} \times 6 \text{ wells}) \times \$500 \text{ per well}) = \$24,000$ for monitoring
 - $((7 \text{ reports} \times 8 \text{ hours}) \times \$80/\text{hour}) + (16 \text{ hours} \times \$80/\text{hour}) = \$5,760$ for reporting
- Total per site corrective action cost:
 - $\$77,500 + \$27,450 + \$2,560 + \$24,000 + \$5,760 = \$137,270$ per site
- Total estimated per site cost to comply with proposed rule 10 CSR 26-2.079 when LNAPL recovery required:
 - $\$3,200$ (CAP preparation) + $\$4,000$ (LNAPL work plan) + $\$83,360$ (LNAPL recovery and reporting) + $\$137,270$ (CAP implementation including monitoring and reporting) = $\$227,830$ total per site cost
- Total estimated per site cost to comply with proposed rule 10 CSR 26-2.079 when LNAPL recovery is not required:

○ $\$3,200 + \$137,270 = \$140,470$ per site

Private Entity Cost of proposed rule 10 CSR 26-2.079

- Assume 1,366 sites³
- Assume 25% of 1,366, or 342 sites, will require corrective action⁴
- Assume LNAPL recovery will be required at 10% of the 342 sites, or 34 sites; therefore, the LNAPL costs estimated above will not apply to 308 sites
- $(34 \times \$227,830) + (308 \times \$140,470) = \$7,746,220 + \$43,264,760 = \$51,010,980$
total aggregate private entity cost

However, approximately 94% of underground storage tank sites are insured by the Petroleum Storage Tank Insurance Fund (PSTIF). Therefore, assuming PSTIF covers each insured party's full cost to comply with this rule, the aggregate private entity cost to comply with this rule is estimated as 6% of the total estimated cost of compliance. The remaining 94% of the cost of compliance will be borne by PSTIF, as explained in the public cost fiscal note for this rule.

Total aggregate private entity cost to meet the requirements of proposed rule 10 CSR 26-2.079 in consideration of 94% of sites being insured by PSTIF:

- $\$51,010,980 \times 0.06 = \$3,060,659$

NOTE: Proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082 present a process referred to as Risk-Based Corrective Action or RBCA. Proposed rule 10 CSR 26-2.075 presents a general overview of that process. The remaining rules expand on specific requirements of the process. In some cases, requirements are found in more than one rule. Where that occurs, efforts have been made to avoid duplication of costs in the fiscal notes. However, some costs might be accounted for in more than one fiscal note. Also, a number of assumptions and estimations are necessary in producing these fiscal notes. For these reasons, adding up the cost of each fiscal note may not necessarily produce an accurate cost of the entire RBCA process presented in proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

³ Missouri Department of Natural Resources Tanks Database indicates 1,366 active release sites as of February 24, 2009. Approximately 94% of the sites are insured by the Petroleum Storage Tank Insurance Fund.

⁴ The actual percentage of sites that will require corrective action is unknown; based on the department's experience, approximately 25% of sites utilizing the RBCA process require corrective action. In addition, the extent – and therefore the cost – of corrective action varies widely from site to site. Readers of this fiscal note should not assume that the costs estimated in this fiscal note are applicable to all sites at which corrective action is required.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 26—Petroleum and Hazardous Substance
Storage Tanks
Chapter 2—Underground Storage Tanks—Technical Regulations

PROPOSED RULE

10 CSR 26-2.080 Public Participation and Notice

PURPOSE: This rule establishes procedures for public participation intended to allow parties affected by a petroleum tank release to provide comments to the department regarding the contamination and planned corrective action activities.

(1) The department will provide for public notice and participation when a release from a petroleum tank system requires a corrective action plan under 10 CSR 26-2.079. The department shall provide, or allow owners and operators to provide, public notice by means designed to reach those members of the public directly affected by the release and the planned corrective action.

(2) Public notice shall be provided to those members of the public directly affected by the release and the planned corrective action in either of the following circumstances:

(A) When contamination from petroleum released from a regulated underground storage tank (UST) system in any media at concentrations exceeding default target levels or, with the approval of the department, other target levels applicable to residential land use has migrated or is likely to migrate beyond one (1) or more boundaries of the property on which the contamination originated and onto one (1) or more adjacent or nearby properties; or

(B) If the department determines that implementation of an approved corrective action plan has failed to achieve applicable target levels or otherwise successfully mitigate unacceptable risks associated with contamination, and the department has terminated or is considering terminating the corrective action plan.

(3) Those members of the public directly affected shall include owners and occupants of adjacent and nearby property onto which contamination has migrated or is likely to migrate regardless of the media through which migration has occurred. When contamination has migrated or is likely to migrate onto multiple properties or affects, or potentially affects, groundwater that is or is likely to be used for domestic or other uses that will or could result in human exposure to chemicals of concern in groundwater, particularly when such groundwater is used as a public water supply, the department may consider other members of the public as being directly affected and require broad public notice. In determining whether multiple properties have been or are likely to be affected and the need for broad public notice, the department will consider the number, size, and ownership of the properties.

(4) Public notice may be made via one (1) or more of the following means or other means determined appropriate by the department:

- (A) Notice in newspapers having circulation in the area in which the site is located;
- (B) Block advertisements;
- (C) Public service announcements;
- (D) Publication in the state register;
- (E) Letters to individual households;
- (F) Letters to property owners; or
- (G) Personal contacts by field staff.

(5) Public notice shall be made at least forty-five (45) days prior to the planned implementation of the corrective action plan and shall occur prior to the department's approval of the proposed corrective

action plan so that the department can receive and consider public comment when determining whether to approve the corrective action plan.

(6) Each public notice occurrence shall allow for a public comment period of at least thirty (30) days after notice has been made and shall specify how those who wish to comment may provide their comments to the department. The notice shall request that all comments be directed to the department.

(7) In each instance in which the department determines that public notice as per section (2) of this rule is required, before providing the public notice, the department will give owners and operators an opportunity to provide the required public notice in lieu of the department. If owners and operators decline, fail to meet notification deadlines as prescribed by the department, or provide notice the department believes to be inadequate, then the department will provide the public notice.

(8) The department may undertake, or allow owners and operators to undertake, public participation activities beyond simple notification of owners and occupants of adjacent and nearby properties if, as determined by the department, contamination is widespread, sufficient public interest exists regarding the corrective action plan or risk assessment, or if deemed necessary by the department for other reasons. The department may gauge public interest based on the response it receives from the initial public notice.

(9) Limited Public Notice. Where members of the public directly affected is limited to owners and occupants of adjacent and nearby property, the following provisions shall apply:

(A) Where public notice is required in accordance with subsection (2)(A) of this rule, owners and occupants of adjacent and nearby property shall be notified no later than forty-five (45) days after the department has determined that contamination has or is likely to migrate onto adjacent or nearby property.

1. The department, or owners and operators in lieu of the department, may provide notification by certified letter to the affected property owners and occupants. The letter shall include, at a minimum:

A. The name and address of the UST owners and operators and the address of the source property;

B. If different from that of the UST owners and operators, the name and address of the owner of the property on which the contamination originated;

C. The name and mailing address of the affected property owner or occupant being notified and the physical address of their property;

D. The name, address, and telephone number of the department's project manager for the site;

E. A description of the contamination and an explanation of how migration onto the adjacent or nearby property is known, suspected, or anticipated;

F. A statement directing the owner or occupant to direct comments to the department's project manager and specifying a comment deadline as established in section (6) of this rule;

G. A statement that information pertaining to the release and the department's decisions regarding the corrective action plan and other matters is or will be available from the department upon request;

H. If available at the time, a description of the actions proposed in owners and operator's corrective action plan to mitigate unacceptable risks associated with the contamination. A copy of the corrective action plan shall be made available to the neighboring owner or occupant at his/her request; and

I. If the corrective action plan has not yet been developed at the time notice is made, the letter must explain the expected scope and type of corrective action activities that will be used and provide

a schedule for corrective action plan development. If the corrective action plan has been developed at the time notice is made, a copy of the plan shall be provided to the party being notified.

2. If owners and operators provide notification by certified letter to the affected property owners or occupants, a copy of each notification letter, including any enclosures or attachments, and a copy of the certified mail receipt or other documentation showing that the owner or occupant of the adjacent or nearby property received the letter shall be submitted to the department within thirty (30) days of the date on which the letter was received by the affected property owner.

3. If the corrective action plan has not yet been developed at the time the initial notice is made, a second letter shall be sent to each party initially notified once the corrective action plan has been developed. The second letter must explain the actual scope and type of corrective action activities to be used and include an implementation schedule. The second letter shall provide the affected owner or occupant a minimum of thirty (30) days from receipt of the letter in which to provide comments to the department regarding the proposed corrective action activities.

4. Owners and operators may provide notification to the affected property owner or occupant in person or by telephone, either in addition to or instead of notification by certified letter. The notice must include the information specified at subparagraphs (9)(A)1.A. through I. not including subparagraph (9)(A)1.C. If notification is made in person or by telephone in lieu of a certified letter, then owners and operators shall provide the department with an affidavit documenting the notification. The affidavit shall be dated, submitted to the department within thirty (30) days of the day on which notification was made, and include the following information:

A. The name and address of UST owners and operators and the source property address;

B. If different from that of the UST owners and operators, the name and address of the owner of the property on which the contamination originated;

C. The name, telephone number, and mailing address of the owner or occupant of the adjacent or nearby property being notified and the physical address of their property;

D. A summary of the in-person or telephone discussion;

E. A statement that the owner or occupant of the adjacent or nearby property was or will be provided a copy of the corrective action plan either by certified mail (a copy of the certified mail receipt must be provided to the department) or in person;

F. The outcome of the meeting or call and any issues raised by the person being notified that will or could hinder implementation of the corrective action plan; and

G. The owners and operator's or authorized designee's signature.

5. Documentation of response received. When owners and operators provide notification in lieu of the department, owners and operators shall inform each party being notified that the party's comments should be directed to the department. Owners and operators shall provide the party being notified with a mailing address, electronic mail address, and fax and phone numbers for the department's project manager for the site. If the party being notified submits their comments to the owner or operator, the owner or operator must forward the comments to the department within fifteen (15) days of receipt as follows:

A. If the response is in writing, a copy shall be submitted to the department; or

B. If the response is in person or by telephone, a dated affidavit fully explaining the notified party's response and bearing the owner and operator's signature or that of their authorized representative must be submitted to the department; and

(B) Where public notice is required in accordance with subsection (2)(B) of this rule, owners and occupants of adjacent and nearby property shall be notified by the department, or owners and opera-

tors in lieu of the department, in a manner consistent with subsection (9)(A) of this rule and with the following provisions:

1. The notice shall specifically pertain to implementation of the corrective action plan and the plan's failure to meet applicable target levels or otherwise successfully mitigate unacceptable risks associated with contamination;

2. The notice shall explain that, because implementation of the corrective action plan was not successful, the department has terminated or is considering terminating the corrective action plan;

3. The notice shall explain that a new corrective action plan will be developed and that a copy of the new corrective action plan will be provided to the department and to each party previously notified; and

4. Once a new corrective action plan has been developed, public notice as provided for in this rule shall be undertaken by the department or, in lieu of the department, by owners and operators.

(10) Notice other than by letter, in person, or by telephone—work plan required. Where public notice is required under subsection (2)(A) of this rule and the department or, in lieu of the department, owners and operators, provide notice by means other than certified letter, in person, or by telephone, the content of the notice must include the information specified at subparagraphs (9)(A)1.A. through I. not including subparagraph (9)(A)1.C. If the notice is to be provided by the owner or operator, the owner or operator must first submit a work plan to the department explaining the means by which the notice will be provided, the content of the notice, and a schedule for providing such notice. The work plan shall not be implemented until approved in writing by the department.

(A) Owners and operators shall, within thirty (30) days of providing the notice under this section, submit documentation to the department that the notice has been adequately provided in accordance with the approved work plan.

(11) Broad Public Notice. Where the department determines that members of the public directly affected by a release or planned corrective action is not limited to owners and occupants of adjacent and nearby property, the department, or owners and operators in lieu of the department, shall provide broad public notice subject to the following provisions:

(A) The department will determine the means by which such notice is provided by considering site-specific demographics as well as locally available media by which notice might be provided, local government capabilities, and other considerations;

(B) Where public notice is required in accordance with subsection (2)(A) of this rule, the broad public notice shall be made no later than one hundred twenty (120) days after the department makes the determination under section (3) of this rule and at least forty-five (45) days prior to the planned implementation of the corrective action plan and prior to the department's approval of the plan; and

(C) If owners and operators choose to provide broad public notice in lieu of the department, the owners and operators shall consult with the department to determine the best means for providing such notice. After consultation with the department, owners and operators shall develop a public participation plan for the department's review explaining how and when the notice is to be provided and allowing for a public comment period of at least thirty (30) days. Owners and operators shall submit the plan to the department within thirty (30) days of the department determining as specified under section (3) of this rule that broad public notice is required. Owners and operators shall not conduct broad public notice activities until the plan has been approved by the department. The department shall review the public participation plan and respond to the owner and operator within thirty (30) days of receipt. If the department rejects the public participation plan, the department will allow owners and operators thirty (30) days in which to modify and resubmit the public participation plan to the department. The department shall review and either approve or reject the modified public participation plan within thirty

(30) days of receipt. If the department rejects the modified public participation plan, the department will provide the broad public notice.

(12) Consideration and Management of Comments Received. If the department receives comments from the public, either directly or through an owner or operator, regarding the migration of contamination off a source property, proposed corrective action activities, the failure of a corrective action plan to achieve target levels or otherwise adequately mitigate risks associated with contamination, or other related matters, then the department will—

(A) Review each comment received;

(B) Consider each comment when reviewing and either approving or rejecting the owner and operator's proposed corrective action plan;

(C) Respond to comments as appropriate under the circumstances. The department will not necessarily accept or respond to each comment received;

(D) Evaluate the comments as a whole in order to determine whether sufficient public interest exists regarding the contamination, the corrective action plan, or the risk assessment such that the department should conduct further public participation activities; and

(E) Keep records of all comments received in the department's file for the subject site.

AUTHORITY: sections 319.109 and 319.137, RSMo Supp. 2008. Material in this rule originally filed as 10 CSR 20-10.067. Original rule filed Feb. 13, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions nine hundred nineteen thousand, eight hundred eighty-six dollars (\$919,886) annually.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, Missouri, 65101, telephone (573) 751-3176.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name: 10 CSR 20-10.080 Public Participation and Notice
Type of Rulemaking: Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	\$919,886 ¹ (annual cost)

III. Worksheet

See calculations in Section IV below.

IV. Assumptions

The requirements of the proposed rule apply to the Department of Natural Resources. The proposed rule allows owners and operators to meet the provisions of the rule in lieu of the department, but owners and operators are not required to do so. For the purposes of this fiscal note, the department assumes the full cost of compliance with the proposed rule will fall to the department.

The department does not intend to expand its Tanks Section to meet the requirements of the proposed rule. Therefore, the cost of the proposed rule to the department is as follows:

The Department of Natural Resources' Hazardous Waste Program, Tanks Section, Remediation Unit oversees the application of all Title 10, Division 26, Chapter 2 rules related to releases from underground storage tanks. The Remediation Unit includes two Environmental Specialist IVs, one Environmental Engineer I/II, and eight Environmental Specialist I/II/IIIs. The following table summarizes the cost to operate the Remediation Unit. The cost is not solely associated with the Unit's administration of proposed rule 10 CSR 26-2.080; rather, it represents the cost to the department to administer all Division 26, Chapter 2 rules applicable to releases from regulated underground storage tanks.

¹ This is the total cost to operate the department's Hazardous Waste Program, Tanks Section, Remediation Unit. The Remediation Unit oversees the application of all Title 10, Division 26, Chapter 2 rules pertaining to releases from underground storage tanks, not just proposed rule 10 CSR 26-2.080.

<u>Position</u>	<u>Number</u>	<u>Bi-monthly Rate</u>	<u>Annual Rate</u>
Environmental Engineer II	1	\$1,966.00	\$47,184
Environmental Specialist III	8	\$1,666	\$319,801
Environmental Specialist IV (Unit Chief)	1	\$1,806.00	\$43,344
Environmental Specialist IV (Technical)	1	\$2,004.00	\$48,084
Subtotal:	11		\$458,413
Fringe (42.9%)			\$196,659
E & E ²			\$64,207
Subtotal			719,279
Indirect (27.89%)			\$200,607
Total Costs for One Year - Existing Funding			\$919,886

The estimated annual cost of the proposed rule to the department is \$919,886. Note, however, this cost is applicable to the department's oversight of all rules pertaining to releases from underground storage tanks regulated by Title 10, Division 26, Chapter 2 rules, not just this rule.

NOTE: Proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082 present a process referred to as Risk-Based Corrective Action or RBCA. Proposed rule 10 CSR 26-2.075 presents a general overview of that process. The remaining rules expand on specific requirements of the process. In some cases, requirements are found in more than one rule. Where that occurs, efforts have been made to avoid duplication of costs in the fiscal notes. However, some costs might be accounted for in more than one fiscal note. Also, a number of assumptions and estimations are necessary in producing these fiscal notes. For these reasons, adding up the cost of each fiscal note may not necessarily produce an accurate cost of the entire RBCA process presented in proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

² \$5,837 per employee -- DNR ongoing E & E standard FY2009

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 26—Petroleum and Hazardous Substance
Storage Tanks
Chapter 2—Underground Storage Tanks—Technical
Regulations

PROPOSED RULE

10 CSR 26-2.081 Long-Term Stewardship

PURPOSE: This rule provides requirements and procedures for long-term stewardship to manage risks at sites where contamination in excess of applicable residential target levels will remain. The requirements in this rule accommodate situations where cleanup to higher levels is appropriate while ensuring that human health, public welfare, and the environment are protected by restricting changes in site conditions.

(1) Reserved.

(2) Long-term stewardship measures shall be employed at any site where, following completion of corrective action activities, concentrations of chemicals of concern in soil or groundwater exceed applicable target levels for residential land use.

(A) At a minimum, long-term stewardship measures must be designed to ensure disclosure so that appropriate information reaches current and future owners, operators, and other users of the property or properties to which the measures apply. The information shall include the location and concentration of chemical(s) of concern on the property and a statement that, without further action, the property is suitable for non-residential uses only.

(B) An enforceable long-term stewardship measure shall be used in the following circumstances:

1. Where reasonably foreseeable and otherwise lawful actions on a property could cause an exposure pathway to become complete (such as the construction of a building or the installation of a water well);

2. Where failure to adequately inspect or maintain an engineered control might allow an exposure pathway to become complete; or

3. Where the department or owners and operators otherwise determine that activity and use limitations are necessary to ensure remaining contaminants do not pose unacceptable risk.

(C) Any required long-term stewardship measures shall be maintained and shall ensure exposure pathways remain incomplete for the period of time during which chemical(s) of concern remain at a concentration(s) that could pose an unacceptable risk to human health, public welfare, or the environment.

(D) Long-term stewardship measures shall be readily accessible, durable, reliable, and consistent with the risk posed by the chemical(s) of concern.

(3) Exception. Long-term stewardship is not required for a property containing an operating underground storage tank (UST) facility where, following the completion of corrective action activities, concentrations of one (1) or more chemicals of concern on the property are below applicable non-residential risk-based target levels. Long-term stewardship measures will be required at the facility after the USTs have been permanently closed if residential target levels are not attained and the site is or may be used for purposes other than as an UST facility. If a release at an operating UST facility results in the migration of chemical(s) of concern onto a neighboring property, corrective action and/or long-term stewardship may be required with respect to the neighboring property in accordance with section 10 CSR 26-2.079(3).

(4) To reduce risks posed by chemicals of concern to human health, public welfare, or the environment, with the approval of the depart-

ment, owners and operators may use long-term stewardship measures as an alternative to, or in conjunction with, reducing concentrations of chemical(s) of concern in environmental media. Owners and operators may use one (1) or more long-term stewardship measures to mitigate risk as part of a corrective action plan.

(5) Long-term stewardship measures shall be fully developed and proposed as part of the corrective action plan and shall be consistent with this rule and any other controls or limitations that are required by the department. The corrective action plan shall use one (1) or more of the measures identified in sections (6) through (10) of this rule or other alternative measures if approved by the department.

(6) Deed Notice or Other Informational Device. A deed notice or other informational device may be applied as a long-term stewardship measure to convey information about conditions at and appropriate use of a property, if the department determines such notification is appropriate. The deed notice or other informational device shall remain in place, accessible, and viable for the period of time that chemical(s) of concern may pose an unacceptable risk to human health, public welfare, or the environment.

(A) A deed notice or other informational device may not be used to impose restrictions or obligations at a property. If such restrictions or obligations are necessary to ensure a condition of risk management, an enforceable long-term stewardship measure shall be applied instead of or in addition to the deed notice or other informational device.

(B) The deed notice shall be recorded in the chain of title of the real property to which the deed notice pertains, be legally precise, contain summary information, and be written in language a lay person can understand. Recording shall be in accordance with the provisions of section 59.310, *Revised Statutes of Missouri*. Once filed, the owner or operator shall submit to the department a copy of the notice as filed and as stamped filed by the recorder's office. The deed notice shall include at least the following information:

1. Identification by common address and legal description of the property to which the deed notice applies;

2. The name of the property owner(s) and declaration of property ownership;

3. Contact information for the department and a statement that any information regarding the investigation, risk assessment, and corrective action performed on the property may be obtained from the department;

4. A description of the type, concentration, and location of petroleum-related contamination on the property;

5. An explanation and description of all corrective actions taken at the property, if any, and the cleanup target levels applied;

6. Identification of the exposure pathway or pathways of concern;

7. Identification and explanation of any and all other long-term stewardship measures affecting the property;

8. A statement that the property is suitable for non-residential use but is not suitable for residential use;

9. A statement using substantially the following language: "Any person may request in writing, at any time, that the Missouri Department of Natural Resources allow modification of this Deed Notice due to the performance of subsequent corrective actions, a change in conditions at the property, or the adoption of revised remediation standards;" and

10. One (1) or more site maps showing—

A. The location and legal boundary of the property to which the deed notice pertains; and

B. The location of petroleum contamination on the property.

(C) With the approval of the department, owners and operators may use an informational device other than a deed notice as a long-term stewardship measure. To be approved, any such informational device must include, provide, and convey at least the information described at paragraphs (6)(B)1.–8. of this rule and be at least as reliable, durable, and accessible as a deed notice.

(7) Restrictive Covenant. A restrictive covenant may be used to impose restrictions or obligations needed to protect current or future users from environmental contamination present on a property. A restrictive covenant acceptable to the department as a long-term stewardship measure shall be durable, enforceable by the state, and run with the property.

(A) The restrictive covenant shall be recorded in accordance with the requirements of section 59.310, RSMo, in the chain of title of the property to which it applies. The restrictive covenant shall contain the elements described at paragraphs (6)(B)2.-8. of this rule and the following:

1. Identification by common address and legal description of the property to which the restrictive covenant applies;

2. An explanation of the restrictions and obligations imposed by the restrictive covenant that apply to the property and the reason for their application;

3. Language instituting such restrictions and obligations, and granting access to the department or its designee to inspect the condition of the property, the integrity of controls, or other matters related to the contamination remaining on the property;

4. A statement that the restrictions and obligations apply to the current owners, occupants, and all heirs, successors, assigns, and lessees;

5. A statement that all restrictions and obligations apply in perpetuity, or until the department issues a new determination of no further remedial action approving modification or removal of the restrictions and obligations, and the release or modification of the restrictive covenant issued by the department is filed in the chain of title for the property;

6. The dated, notarized signatures of the property owners or authorized agent; and

7. One (1) or more scaled site maps showing—

A. The location and legal boundary of the property to which the restrictive covenant applies;

B. The estimated horizontal and vertical extent of concentrations of chemical(s) of concern in soil and/or groundwater to which the restrictive covenant applies;

C. If applicable, specific areas within the property where specific activities or uses are restricted by the restrictive covenant (for example, areas where building construction is restricted or the installation of water wells is restricted);

D. All engineered features and monitoring points to which the restrictive covenant applies;

E. The location of the contamination source, if known and relevant to the purposes of the restrictive covenant; and

F. The direction(s) of groundwater movement in subsurface zone(s) affected by site-related chemical(s) of concern.

(B) A copy of the recorded restrictive covenant that references the book and page of recording shall be submitted to the department as part of the corrective action plan completion report.

(C) The use of a property shall be consistent with the terms of the restrictive covenant imposed on the property unless the department approves a change in the terms of the restrictive covenant. In such case, documentation of the change shall be recorded in the chain of title of the property and a copy of the materials recorded provided to the department program under which the restrictive covenant was first imposed.

(8) Ordinances and Supporting Memoranda of Agreement. An ordinance adopted by a local government may be used as a land use control or, if the ordinance is applicable to a specific exposure pathway, to prevent exposures via that pathway. In either case, the ordinance may be used only if it is supported by a memorandum of agreement between the local government and the department.

(9) Engineered Controls. Engineered controls or barriers, including access controls, may be used as a long-term stewardship measure as part of the corrective action plan to prevent direct human or envi-

ronmental exposure to contaminants. An engineered control or barrier may be used only if a restrictive covenant as described in section (7) of this rule is applied to the property to ensure long-term monitoring and maintenance of the engineered control or barrier. Inspection, maintenance, and integrity certification requirements for the engineered control or barrier shall be included in the corrective action plan and restrictive covenant. The corrective action plan and the restrictive covenant shall include contingencies to address temporary breaches of an engineered control or barrier. Absent such a provision, temporary breaches of the control or barrier, unless caused by an unanticipated act of nature, are prohibited unless approved by the department. Any breach caused by an unanticipated act of nature shall be repaired in a timely manner.

(10) Well location and construction restriction rules, including but not limited to those in 10 CSR 23-3, may be used as a long-term stewardship measure to the extent that they restrict access to certain groundwaters and prevent exposure to contaminants.

(11) Applicability. Owners and operators shall use long-term stewardship measures that are appropriate for the exposure pathway or condition the measures are intended to address as part of the corrective action plan, with approval by the department, in accordance with the following provisions:

(A) Groundwater Domestic Use Pathway. If following completion of corrective action activities concentrations of chemical(s) of concern exceed target levels applicable to the groundwater domestic use pathway and the pathway is complete under current or future conditions, one (1) or more of the following long-term stewardship measures shall be used:

1. A restrictive covenant;

2. A local ordinance and supporting memorandum of agreement;

3. An engineered control including monitoring, maintenance, and periodic integrity certification accompanied by a restrictive covenant; or

4. Well location and construction requirements in 10 CSR 23-3;

(B) Vapor Intrusion Pathway. If following the completion of corrective action activities concentrations of chemical(s) of concern exceed target levels applicable to the indoor inhalation of vapor emissions from soil or groundwater exposure pathway for the future land use the department has determined applies to the property in accordance with subsection 10 CSR 26-2.075(9)(A) and the pathway is complete under current or future conditions, one (1) or more of the following long-term stewardship measures shall be used:

1. A restrictive covenant; or

2. An engineered control including monitoring, maintenance, and periodic integrity certification accompanied by a restrictive covenant;

(C) Other Exposure Pathways. For any other complete exposure pathway for which, following the completion of corrective action activities, concentrations of chemicals of concern exceed applicable target levels for the future land use the department has determined applies to the property in accordance with subsection 10 CSR 26-2.075(9)(A), owners and operators may manage related risk, in whole or in part, through the application of specific long-term stewardship measures if approved by the department. All such measures shall be proposed as part of the corrective action plan; and

(D) Regardless of the exposure pathway, even where not required by the department, owners and operators may utilize a deed notice or other informational device or a restrictive covenant as an additional precaution at their discretion. If an owner or operator intends to use a deed notice or other informational device, a restrictive covenant, or any other additional long-term stewardship method or measure, the owner or operator may propose such as part of the corrective action plan.

AUTHORITY: sections 319.109 and 319.137, RSMo Supp. 2008.

Original rule filed Feb. 13, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately \$2,161,120 in the aggregate and \$1,000,407 annually.

PRIVATE COST: This proposed rule will cost private entities \$141,974 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

FISCAL NOTE**PUBLIC COST****I. RULE NUMBER**

Rule Number and Name: 10 CSR 26-2.081 Long-Term Stewardship
Type of Rulemaking: Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	\$1,000,407 ¹ (annual cost)
Petroleum Storage Tank Insurance Fund	\$2,161,120 (aggregate cost)

III. Worksheet

See calculations in Section IV below.

IV. Assumptions

The proposed rule requires the application of long-term stewardship measures when contaminants will remain on a site at concentrations exceeding standards applicable to residential land use. The proposed rule allows the long-term stewardship measure to be met in one of several ways, though the number of options available becomes limited when certain conditions are present. Importantly, long-term stewardship requirements in proposed rule 10 CSR 26-2.081 may be avoided entirely by conducting corrective action to reduce contaminant concentrations to below residential target levels.

At a minimum, the proposed rule requires that information regarding conditions at a site be disclosed to future property owners and users. In general, the measure used for this purpose is a deed notice recorded in the chain of title for the subject property. The following summarizes assumptions used in estimating the cost of applying a deed notice. Note that a deed notice need not necessarily be drafted by an attorney.

- Assume professional pay rate of \$80 per hour
- Assume attorney pay rate of \$120 per hour
- Assume drafting the deed notice requires 4 attorney hours
- Assume professional staff time to record the deed notice and submit a copy to the department is 2 hours
- Total per site cost to apply a deed notice as a long-term stewardship measure
 - $(\$120 \times 4) + (\$80 \times 2) = \$640$

¹ This is the total cost to operate the department's Hazardous Waste Program, Tanks Section, Remediation Unit. The Remediation Unit oversees the application of all Title 10, Division 26, Chapter 2 rules pertaining to releases from underground storage tanks, not just proposed rule 10 CSR 26-2.081.

In other situations, an enforceable long-term stewardship measure will be warranted. Under the proposed rule, enforceable measures include restrictive covenants, ordinances (provided they are supported by a memorandum of agreement between the local government and the department), and well location and construction rules. Of these, only restrictive covenants have an associated financial cost.

The following summarizes assumptions used in estimating the cost of applying a restrictive covenant. Note that a restrictive covenant need not necessarily be drafted by an attorney.

- Assume professional pay rate of \$80 per hour
- Assume attorney pay rate of \$120 per hour
- Assume drafting the restrictive covenant takes 8 attorney hours
- Assume professional staff time to record the covenant and submit a copy to the department is 2 hours
- Total per site cost to develop and record a restrictive covenant
 - $(\$120 \times 8) + (\$80 \times 2) = \$1,120$ per site

Some restrictive covenants will require periodic inspections or other ongoing activities to ensure the conditions of the restrictive covenant are not violated in the future. The need for, type of, and duration of such activities can vary significantly from site to site. For the purposes of this fiscal note, the following is assumed with respect to ongoing inspection activities associated with a restrictive covenant.

- Assume covenant requires annual inspections to verify land use has not changed
- Assume each inspection requires 4 hours
- Assume development of inspection report requires 4 hours
- Assume professional staff pay rate of \$80 per hour
- Assume need for inspections as 20 years
 - $((4 + 4) \times \$80) \times 20 = \$12,800$
- Total per site cost to apply a restrictive covenant as a long-term stewardship measure
 - $\$1,120$ (apply and record) + $\$12,800$ (inspection and reporting) = $\$13,920$ per site

The proposed rule allows the use of engineered controls as long-term stewardship measures, provided a restrictive covenant is applied to the property to ensure the long-term maintenance and monitoring of the control. An engineered control is a type of corrective action and the cost can vary significantly depending on the type and extent of the control. Costs associated with engineered controls are not covered in this fiscal note.

Cost of proposed rule 10 CSR 26-2.081 to the Petroleum Storage Tank Insurance Fund (PSTIF)

The PSTIF is responsible for 1,254 underground storage tank release sites². Therefore, the aggregate cost to PSTIF to meet the requirements of proposed rule 10 CSR 26-2.081 is as follows:

- Assume 1,254 sites
- Assume 50%, or 627 sites, will require long-term stewardship
- Of the sites where long-term stewardship will be required, assume 60% or 376 sites will use a deed notice
- Assume 20% or 125 sites will use a restrictive covenant
- Assume 20% will use an ordinance or well location and construction rule (which pose no cost to owners or operators)
- $(\$1,120 \times 376) + (\$13,920 \times 125) = \$2,161,120$ total aggregate cost

The total aggregate cost of proposed rule 10 CSR 26-2.081 to PSTIF is \$2,161,120.

Cost of proposed rule to Department of Natural Resources

The Department of Natural Resources' Hazardous Waste Program, Tanks Section, Remediation Unit oversees the application of all Title 10, Division 26, Chapter 2 rules related to releases from underground storage tanks. The Remediation Unit includes two Environmental Specialist IVs, one Environmental Engineer I/II, and eight Environmental Specialist I/II/IIIs. The following table summarizes the annual cost to operate the Remediation Unit. The cost is not solely associated with the Unit's administration of proposed rule 10 CSR 26-2.081; rather, it represents the cost to the department to administer all Division 26, Chapter 2 rules applicable to releases from regulated underground storage tanks.

The Tanks Section believes one additional staff member is necessary to manage long-term stewardship issues – such as tracking, inspection monitoring, conducting inspections, and assisting owners and operators with long-term stewardship issues – for the department. The addition of one staff member would increase the number of Environmental Specialist III positions from 8 to 9. This change is reflected in the table below.

² December 15, 2008, State UST Fund Soundness Data Form, line 21, completed by Patrick Eriksen, Williams & Company, third party administrator of PSTIF

<u>Position</u>	<u>Number</u>	<u>Bi-monthly Rate</u>	<u>Annual Rate</u>
Environmental Engineer II	1	\$1,966.00	\$47,184
Environmental Specialist III	9	\$1,666	\$359,776
Environmental Specialist IV (Unit Chief)	1	\$1,806.00	\$43,344
Environmental Specialist IV (Technical)	1	\$2,004.00	\$48,084
Subtotal:	12		\$498,388
Fringe (42.9%)			\$213,808
E & E ³			\$70,044
Subtotal			\$782,240
Indirect (27.89%)			\$218,167
Total Costs for One Year - Existing Funding			\$1,000,407

The estimated annual cost of the proposed rule to the department is \$1,000,407. Note, however, this cost is applicable to the department's oversight of all rules pertaining to releases from underground storage tanks regulated by Title 10, Division 26, Chapter 2 rules, not just proposed rule 10 CSR 26-2.081.

NOTE: Proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082 present a process referred to as Risk-Based Corrective Action or RBCA. Proposed rule 10 CSR 26-2.075 presents a general overview of that process. The remaining rules expand on specific requirements of the process. In some cases, requirements are found in more than one rule. Where that occurs, efforts have been made to avoid duplication of costs in the fiscal notes. However, some costs might be accounted for in more than one fiscal note. Also, a number of assumptions and estimations are necessary in producing these fiscal notes. For these reasons, adding up the cost of each fiscal note may not necessarily produce an accurate cost of the entire RBCA process presented in proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

³ \$5,837 per employee – DNR ongoing E & E standard FY2009

FISCAL NOTE**PRIVATE COST****I. RULE NUMBER**

Rule Number and Name: 10 CSR 26-2.081 Long-Term Stewardship
Type of Rulemaking: Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Classification by types of the business entities which would likely be affected:	Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
<ul style="list-style-type: none"> • Retail automotive fueling stations • Fleet operations • Automotive service and repair facilities • Manufacturing operations • Other owners and operators of underground storage tank systems 	>2,000 ¹	\$141,974 ²

III. Worksheet

See calculations in Section IV below.

IV. Assumptions

¹ The Missouri Department of Natural Resources tanks database lists approximately 1,900 registered underground storage tank owners; the department assumes that several hundred additional owners exist who have not registered with the department.

² Approximately 94% of the total number of underground storage tank release sites are insured by the Petroleum Storage Tank Insurance Fund (PSTIF). Therefore, assuming PSTIF covers each insured party's full cost to comply with this rule, the aggregate private entity cost to comply with this rule is estimated as 6% of the total estimated cost of compliance of \$2,366,240.

The proposed rule requires the application of long-term stewardship measures when contaminants will remain on a site at concentrations exceeding standards applicable to residential land use. The proposed rule allows the long-term stewardship measure to be met in one of several ways, though the number of options available becomes limited when certain conditions are present. Importantly, long-term stewardship requirements in proposed rule 10 CSR 26-2.081 may be avoided entirely by conducting corrective action to reduce contaminant concentrations to below residential target levels.

At a minimum, the proposed rule requires that information regarding conditions at a site be disclosed to future property owners and users. In general, the measure used for this purpose is a deed notice recorded in the chain of title for the subject property. The following summarizes assumptions used in estimating the cost of applying a deed notice. Note that a deed notice need not necessarily be drafted by an attorney.

- Assume professional pay rate of \$80 per hour
- Assume attorney pay rate of \$120 per hour
- Assume drafting the deed notice requires 4 attorney hours
- Assume professional staff time to record the deed notice and submit a copy to the department is 2 hours
- Total per site cost to apply a deed notice as a long-term stewardship measure
 - $(\$120 \times 4) + (\$80 \times 2) = \$640$

In other situations, an enforceable long-term stewardship measure will be warranted. Under the proposed rule, enforceable measures include restrictive covenants, ordinances (provided they are supported by a memorandum of agreement between the local government and the department), and well location and construction rules. Of these, only restrictive covenants have an associated financial cost.

The following summarizes assumptions used in estimating the cost of applying a restrictive covenant. Note that a restrictive covenant need not necessarily be drafted by an attorney.

- Assume professional pay rate of \$80 per hour
- Assume attorney pay rate of \$120 per hour
- Assume drafting the restrictive covenant takes 8 attorney hours
- Assume professional staff time to record the covenant and submit a copy to the department is 2 hours
- Total per site cost to develop and record a restrictive covenant
 - $(\$120 \times 8) + (\$80 \times 2) = \$1,120$ per site

Some restrictive covenants will require periodic inspections or other ongoing activities to ensure the conditions of the restrictive covenant are not violated in the future. The need for, type of, and duration of such activities can vary significantly from site to site. For the purposes of this fiscal note, the following is assumed with respect to ongoing inspection activities associated with a restrictive covenant.

- Assume covenant requires annual inspections to verify land use has not changed
- Assume each inspection requires 4 hours
- Assume development of inspection report requires 4 hours
- Assume professional staff pay rate of \$80 per hour
- Assume need for inspections as 20 years
 - $((4 + 4) \times \$80) \times 20 = \$12,800$
- Total per site cost to apply a restrictive covenant as a long-term stewardship measure
 - $\$1,120$ (apply and record) + $\$12,800$ (inspection and reporting) = $\$13,920$ per site

The proposed rule allows the use of engineered controls as long-term stewardship measures, provided a restrictive covenant is applied to the property to ensure the long-term maintenance and monitoring of the control. An engineered control is a type of corrective action and the cost can vary significantly depending on the type and extent of the control. Costs associated with engineered controls are not covered in this fiscal note.

Cost of proposed rule 10 CSR 26-2.081 to private entities

The aggregate cost for private entities to meet the requirements of proposed rule 10 CSR 26-2.081 is as follows:

- Assume 1,366 sites³
- Assume 50%, or 683 sites, will require long-term stewardship
- Of the sites where long-term stewardship will be required, assume 60% or 410 sites will use a deed notice
- Assume 20% or 137 sites will use a restrictive covenant
- Assume 20% will use an ordinance or well location and construction rule (which pose no cost to owners or operators)
- $(\$1,120 \times 410) + (\$13,920 \times 137) = \$2,366,240$ total aggregate cost

The total aggregate cost of proposed rule 10 CSR 26-2.081 to private entities is \$2,366,240.

However, approximately 94% of underground storage tank sites are insured by the Petroleum Storage Tank Insurance Fund (PSTIF). Therefore, assuming PSTIF covers each insured party's full cost to comply with this rule, the aggregate private entity cost to comply with this rule is estimated as 6% of the total estimated cost of compliance. The remaining 94% of the cost of compliance will be borne by PSTIF, as explained in the public cost fiscal note for this rule.

³ Missouri Department of Natural Resources Tanks Database indicates 1,366 active release sites as of February 24, 2009. Approximately 94% of the sites are insured by the Petroleum Storage Tank Insurance Fund.

Total aggregate private entity cost to meet the requirements of proposed rule 10 CSR 26-2.081 in consideration of 94% of sites being insured by PSTIF:

- $\$2,366,240 \times 0.06 = \$141,974$

NOTE: Proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082 present a process referred to as Risk-Based Corrective Action or RBCA. Proposed rule 10 CSR 26-2.075 presents a general overview of that process. The remaining rules expand on specific requirements of the process. In some cases, requirements are found in more than one rule. Where that occurs, efforts have been made to avoid duplication of costs in the fiscal notes. However, some costs might be accounted for in more than one fiscal note. Also, a number of assumptions and estimations are necessary in producing these fiscal notes. For these reasons, adding up the cost of each fiscal note may not necessarily produce an accurate cost of the entire RBCA process presented in proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 26—Petroleum and Hazardous Substance
Storage Tanks
Chapter 2—Underground Storage Tanks—Technical
Regulations

PROPOSED RULE

10 CSR 26-2.082 No Further Remedial Action Determinations

PURPOSE: This rule explains when the department will make a no further remedial action determination, conditions applicable to such determination, content of the no further remedial action determination letter, and conditions under which the department may void such determination.

(1) The department will make a determination that no further remedial action is required at a site when the requirements of 10 CSR 26-2.070 through 10 CSR 26-2.082 are met to the satisfaction of the department.

(2) Owners and operators may request that the department make a determination of no further remedial action for a site when a risk assessment has been performed and the results approved by the department and, if a corrective action plan is required, the approved corrective action plan has been successfully implemented.

(3) The department will make a determination of no further remedial action for the site if the concentrations of chemicals of concern on the site do not pose an unacceptable level of risk to human health, public welfare, and the environment for the current and reasonably anticipated future land use and all requirements of the approved corrective action plan have been satisfied, including implementation of approved long-term stewardship measures.

(4) The department's determination of no further remedial action for a site and issuance of a no further remedial action letter shall be contingent on the following conditions being met for a site:

(A) If relevant, the groundwater solute plume is stable or decreasing. If this condition is not satisfied, owners and operators shall continue groundwater monitoring on a schedule approved by the department until the plume is demonstrably stable, take actions to hasten stabilization of the solute plume, or conduct further evaluation to demonstrate that the lack of demonstrated solute plume stability will not result in excessive risk;

(B) The maximum concentration of any chemical of concern in any sample used in developing a representative concentration is less than ten (10) times the representative concentration of that chemical of concern for any exposure pathway. This condition can be met if the high concentration can be explained by any of the following, appropriate action is taken to address the condition, and the department approves the risk assessment with this explanation:

1. The maximum concentration is an outlier;

2. The representative concentration was inaccurately calculated and is replaced with an accurately calculated representative concentration; or

3. Other explanation satisfactory to the department;

(C) Pursuant to 10 CSR 26-2.081, long-term stewardship is established if the concentration of any contaminant of concern exceeds applicable target levels for residential land use; and

(D) There are no ecological concerns at the site, as determined by completion of the ecological risk assessment or confirmation that the maximum or representative concentrations of chemicals of concern are below levels protective of ecological receptors.

(5) A determination of no further remedial action for a site by the department will be documented in a letter provided to owners and operators and other such parties as may be appropriate.

(A) The department will include all of the following in the letter:

1. A statement that, based on the information available, the concentrations of chemicals of concern on the site do not pose an unacceptable level of risk to human health, public welfare, and the environment for the current and reasonably anticipated future land use as long as all applicable long-term stewardship requirements, if any, are met now and in the future;

2. A description of the site by legal description, by reference to a plat showing the boundaries, or by other means the department determines sufficient to identify site location, any of which may be an attachment to the letter;

3. An acknowledgement that the requirements of the corrective action plan were satisfied, including reference to the administrative record supporting completion of the site work, and acknowledging continuing requirements of the corrective action plan, if any;

4. A statement regarding applicable property use in light of remediation objectives and specification of any long-term stewardship requirements imposed as part of the remediation efforts;

5. A statement that, based upon a review of reports pertaining to the site that were submitted to the department, no further remedial action is required regarding the specific release or releases at the site as long as continuing requirements, if any, of the approved corrective action plan are met now and in the future;

6. A statement, if relevant, prohibiting use of the site in a manner inconsistent with any activity and use limitation imposed as a result of the corrective action efforts without additional appropriate corrective action activities;

7. A description of any preventive engineered control, institutional control, or monitoring, including long-term monitoring of wells, required in the approved corrective action plan or a reference identifying where corrective action plan information can be found;

8. A statement, if relevant, describing any denial of access to adjacent and nearby property and the property to which access was denied and any resulting limitations in conducting site characterization, risk assessment, or corrective action;

9. Notification that further information regarding the site can be obtained from the department through a request under the Missouri Sunshine Law (Chapter 610, RSMo);

10. A standard department reservation of rights clause for previously unknown or changing site conditions; and

11. Notification that the determination of no further remedial action may be voided for reasons listed in section 10 CSR 26-2.082(7).

(6) No site with an activity and use limitation or other long-term stewardship requirements may be used in a manner inconsistent with such activity and use limitation or other requirements unless further evaluation demonstrates, or corrective action results in, the attainment of objectives appropriate for the new land use or activity. If the department approves modified long-term stewardship requirements, an updated letter reflecting the new site conditions and requirements may be obtained and recorded as described above.

(7) The department may void a determination of no further remedial action if site use and activities are not managed in full compliance with the approved corrective action plan.

(A) Specific acts or omissions that may result in voiding of the determination include and are not limited to:

1. Failure to adhere to the terms of an activity and use limitation;

2. Failure to adhere to any other applicable long-term stewardship measure or environmental limitation;

3. The failure of owners and operators or any subsequent transferee to operate and maintain preventive or engineered controls, to comply with any monitoring plan, or to disturb the site contrary to the established limitations;

4. Disturbance or removal of contamination that has been left in place if such disturbance or removal is not in accordance with the

corrective action plan;

5. Failure to comply with the recording requirements or to complete them in a timely manner; or

6. Obtaining the determination of no further remedial action by fraud or misrepresentation.

(B) The department may void the determination of no further remedial action if information becomes available to indicate that contaminants, releases, or other site-specific conditions are present at a site and were not accounted for in the risk assessment and corrective action plan and pose or may pose a threat to human health, public welfare, or the environment.

(C) If the department voids a determination of no further remedial action, it may provide a letter to the party or parties to whom the no further remedial action determination letter was originally provided and to other involved or affected parties explaining that the no further remedial action determination is void and why, place a notice to that effect in the chain of title, pursue enforcement action, declare an environmental emergency, or take other actions to protect human health, public welfare, or the environment.

AUTHORITY: sections 319.109 and 319.137, RSMo Supp. 2008. Original rule filed Feb. 13, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions nine hundred nineteen thousand eight hundred eighty-six dollars (\$919,886) annually.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:30 a.m. on August 20, 2009, at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on August 27, 2009. Faxed or emailed correspondence will not be accepted. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

FISCAL NOTE**PUBLIC COST****I. RULE NUMBER**

Rule Number and Name: 10 CSR 26-2.082 No Further Remedial Action Determinations
Type of Rulemaking: Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Department of Natural Resources	\$919,886 ¹ (annual cost)

III. Worksheet

See calculations in Section IV below.

IV. Assumptions

The requirements of the proposed rule are applicable to the Department of Natural Resources. The rule outlines the conditions under which the department will make a determination of No Further Remedial Action for an underground storage tank site. In addition, the rule explains the general content of No Further Remedial Action letters issued by the department to underground storage tanks owners and operators. Finally, the rule explains the conditions under which the department may void a No Further Remedial Action determination and the potential consequences of that action.

Cost of proposed rule to Department of Natural Resources

The Department of Natural Resources' Hazardous Waste Program, Tanks Section, Remediation Unit oversees the application of all Title 10, Division 26, Chapter 2 rules related to releases from underground storage tanks. The Remediation Unit includes two Environmental Specialist IVs, one Environmental Engineer I/II, and eight Environmental Specialist I/II/III's. The following table summarizes the cost to operate the Remediation Unit. The cost is not solely associated with the Unit's administration of proposed rule 10 CSR 26-2.082; rather, it represents the cost to the department to administer all Division 26, Chapter 2 rules applicable to releases from regulated underground storage tanks.

¹ This is the total annual cost to operate the department's Hazardous Waste Program, Tanks Section, Remediation Unit. The Remediation Unit oversees the application of all Title 10, Division 26, Chapter 2 rules pertaining to releases from underground storage tanks, not just proposed rule 10 CSR 26-2.082.

<u>Position</u>	<u>Number</u>	<u>Bi-monthly Rate</u>	<u>Annual Rate</u>
Environmental Engineer II	1	\$1,966.00	\$47,184
Environmental Specialist III	8	\$1,666	\$319,801
Environmental Specialist IV (Unit Chief)	1	\$1,806.00	\$43,344
Environmental Specialist IV (Technical)	1	\$2,004.00	\$48,084
Subtotal:	11		\$458,413
Fringe (42.9%)			\$196,659
E & E ²			\$64,207
	Subtotal		719,279
Indirect (27.89%)			\$200,607
Total Costs for One Year - Existing Funding			\$919,886

The estimated annual cost of the proposed rule to the department is \$919,886. Note, however, this cost is applicable to the department's oversight of all rules pertaining to releases from underground storage tanks regulated by Title 10, Division 26, Chapter 2 rules, not just this rule.

NOTE: Proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082 present a process referred to as Risk-Based Corrective Action or RBCA. Proposed rule 10 CSR 26-2.075 presents a general overview of that process. The remaining rules expand on specific requirements of the process. In some cases, requirements are found in more than one rule. Where that occurs, efforts have been made to avoid duplication of costs in the fiscal notes. However, some costs might be accounted for in more than one fiscal note. Also, a number of assumptions and estimations are necessary in producing these fiscal notes. For these reasons, adding up the cost of each fiscal note may not necessarily produce an accurate cost of the entire RBCA process presented in proposed rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

² \$5,837 per employee – DNR ongoing E & E standard FY2009

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 10—County Employees' Defined Contribution Plan

PROPOSED AMENDMENT

16 CSR 50-10.050 Distribution of Accounts. The board is amending subsection (3)(B).

PURPOSE: This amendment amends the cash-out provisions under the defined contribution plan.

(3) Commencement of Distributions and Payment Options.

(B) Notwithstanding subsection (3)(A), if the value of a Participant's Account is [five thousand dollars (\$5,000)] **one thousand dollars (\$1,000)** or less at the time of the Participant's Separation from Service (without respect to any Board matching contributions or Employer matching contributions which might be allocated following the Participant's Separation from Service), then his or her benefit under the Plan shall be distributed to the Participant in a single sum as soon as administratively feasible following his or her Separation from Service.

AUTHORITY: section 50.1250, RSMo Supp. 2008 and section 50.1260, RSMo 2000. Original rule filed May 9, 2000, effective Jan. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 31, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, 2121 Schotthill Woods Drive, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2085—Board of Cosmetology and Barber
Examiners
Chapter 3—License Fees

PROPOSED AMENDMENT

20 CSR 2085-3.010 Fees. The board is proposing to amend subparagraph (1)(C)4.A., subsection (1)(D), and subparagraph (1)(D)5.A.; add new paragraphs (2)(C)3. and (2)(C)4., and renumber the remaining paragraphs accordingly; add new paragraphs (3)(A)2. and (3)(A)3., and renumber the remaining paragraphs accordingly; and amend paragraphs (3)(D)4. and (3)(D)5.

PURPOSE: The board is statutorily obligated to enforce and administer the provisions of sections 328.010–328.160, RSMo. Pursuant to section 329.015, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 328.010–328.160, RSMo, and sections 329.010–329.265, RSMo, so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the committee for administering the provisions of sections 328.010–328.160, RSMo, and sections 329.010–329.265, RSMo.

Therefore, this amendment clarifies the months that penalty fees will be assessed after the renewal period for barbers and barber establishments and establishes a reinstatement fee and change of ownership fee for cosmetology establishments.

(1) The following barber related fees are hereby established by the State Board of Cosmetology and Barber Examiners for those fees, activities, or licenses governed by Chapter 328, RSMo.

(C) Barber

- | | |
|--|-------|
| 1. Reciprocity | \$100 |
| 2. Exam Score Endorsement Fee | \$100 |
| 3. Certificate of Registration (first license) | \$ 20 |
| 4. License Renewal | \$ 30 |

A. Reinstatement (delinquent) Fee after
[April 30] **November 30** (not renewable after
two (2) years)

\$ 60

B. Military renewal under 328.110.3, RSMo

\$ 1

(D) Barber Establishment (**Full Service/Chair Rental**)

- | | |
|--|------------|
| 1. Certificate of Registration/License | \$100 |
| 2. Change of Location | |
| A. Full Service Barber Establishment | \$100 |
| B. Barber Chair/Individual Space Renter | \$ 50 |
| 3. Change of Ownership | \$ 50 |
| 4. Adding a Co-Owner | \$ 50 |
| 5. License Renewal | \$ 50 |
| A. Penalty Fee after [March 30] October 30 | \$[100]/80 |
| 6. Delinquent Fee (Opening a barber establishment
without registering before opening) | \$100 |

(2) The following cosmetology related fees are hereby established by the board for those fees, activities, or licenses governed by Chapter 329, RSMo.

(C) Cosmetology Establishments (up to and including three (3) operators)

- | | |
|---|--------------|
| 1. Application/License Fee (Full Service
& Rental Station) | \$100 |
| 2. Change of Location— | |
| A. Full Service Cosmetology Establishment | \$100 |
| B. Rental Station/Independent Contractors | \$ 50 |
| 3. Change of Ownership | \$100 |
| 4. Adding Co-Owner | \$ 50 |
| [3.]5. Delinquent Fee (Opening a cosmetology
establishment without registering before opening) | \$100 |
| [4.]6. Renewal Fee (Full Service & Rental Station) | \$ 50 |
| A. Reinstatement (Includes late fee) | \$ 80 |

(3) The following fees are hereby established by the board for crossover licensees under Chapter 328 or Chapter 329, RSMo.

(A) Establishments:

- | | |
|---|--------------|
| 1. Application/License Fee | \$100 |
| 2. Change of Ownership | \$100 |
| 3. Adding Co-Owner | \$ 50 |
| [2.]4. Change of Location Fee (Full Service) | \$100 |
| [3.]5. Change of Location Fee (Rental) | \$ 50 |
| [4.]6. Delinquent Fee (Opening an establishment
without a license) | \$100 |
| [5.]7. Reinstatement Fee (Includes Late Fee) | \$130 |
| [6.]8. Renewal Fee (Full Service & Rental Station) | \$100 |

(D) Operators

- | | |
|--|------------|
| 1. Initial Application/License Fee | \$100 |
| 2. Reciprocity Fee | \$100 |
| 3. Exam Score Endorsement Fee | \$100 |
| 4. Reinstatement Fee (Includes Late Fee) | \$[130]/90 |
| 5. Renewal Fee | \$[100]/60 |

AUTHORITY: section[s] 328.060.1, RSMo 2000 and section 329.025.1(4), RSMo Supp. [2006] 2008. Original rule filed June 27, 2007, effective Dec. 30, 2007. Amended: Filed March 30, 2009.

PUBLIC COST: This proposed amendment will increase revenue for state agencies or political subdivisions approximately five thousand four hundred dollars (\$5,400) biennially for the life of the rule. It is anticipated that the increase in revenue will recur for the life of the rule, may vary with inflation, and is expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will cost private entities approximately five thousand four hundred dollars (\$5,400) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Cosmetology and Barber Examiners, Darla Fox, Executive Director, PO Box 1062, Jefferson City, MO 65102, by facsimile at 573-751-8176, or via email at cosbar@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC FISCAL NOTE**I. RULE NUMBER****Title 20 -Department of Insurance, Financial Institutions and Professional Registration****Division 2085 - Board of Cosmetology and Barber Examiners****Chapter 3 - License Fees****Proposed Amendment - 20 CSR 2085-3.010 Fees**

Prepared September 8, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Increase in Revenue	
Board of Cosmetology and Barber Examiners	\$5,400.00	
	Revenue Biennially for the Life of the Rule	\$5,400.00

III. WORKSHEET

The division is statutorily obligated to enforce and administer the provisions of sections 328.010-328.160, RSMo and 329.010-329.265, RSMo. Pursuant to sections 328.060.1., RSMo and 329.025.1.(4), RSMo, the division shall by rule and regulation set the amount of fees authorized by sections 328.010-328.160, RSMo and 329.010-329.265, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 328.010-328.160, RSMo and 329.010-329.265, RSMo. The board estimates the projections calculated in the Private Entity Fiscal Notes will be total revenue for the board.

IV. ASSUMPTION

1. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions and Professional Registration

Division 2085 - Board of Cosmetology and Barber Examiners

Chapter 3 - License Fees

Proposed Amendment - 20 CSR 2085-3.010 Fees

Prepared September 8, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
9	Barber Establishment (Penalty Fee @ \$20 Decrease)	(\$180.00)
5	Cosmetology Establishment (Change of Ownership Fee @ \$100)	\$500.00
5	Cosmetology Establishment (Adding a Co-Owner Fee @ \$50)	\$250.00
90	Cosmetology Establishment (Reinstatement Fee @ \$80)	\$7,200.00
5	Crossover License Establishments (Change of Ownership Fee @ \$100)	\$500.00
5	Crossover License Establishments (Adding a Co-Owner Fee @ \$50)	\$250.00
50	Crossover Operators (License Fee @ \$40 Decrease)	(\$2,000.00)
3	Crossover Operators (Reinstatement Fee @ \$40 Decrease)	(\$120.00)
25	Crossover Operators (Renewal Fee @ \$40 Decrease)	(\$1,000.00)
Estimated Biennial Cost of Compliance for the Life of the Rule		\$5,400.00

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures reported above are based on FY08 actuals.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The division is statutorily obligated to enforce and administer the provisions of sections 328.010-328.160, RSMo and 329.010-329.265, RSMo. Pursuant to sections 328.060.1., RSMo and 329.025.1.(4), RSMo, the division shall by rule and regulation set the amount of fees authorized by sections 328.010-328.160, RSMo and 329.010-329.265, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 328.010-328.160, RSMo and 329.010-329.265, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2145—Missouri Board of Geologist Registration
Chapter 1—General Rules**

PROPOSED AMENDMENT

20 CSR 2145-1.040 Fees. The board is proposing to add subsection (1)(L).

PURPOSE: This amendment establishes a fee to be charged to those applicants who cancel their National Association of State Boards of Geology (ASBOG) examination so that the board can recover the fees charged for unused testing booklets.

(1) The following fees are established by the Board of Geologist Registration and are payable in the form of a cashier's check, personal check, or money order:

(L) Exam Cancellation/Book Assessment Fee (amount determined by the Association of State Boards of Geology)

*AUTHORITY: section 256.465.2, RSMo Supp. [2007] 2008. This rule originally filed as 4 CSR 145-1.040. Emergency rule filed June 29, 1995, effective July 9, 1995, expired Nov. 5, 1995. Original rule filed Sept. 28, 1995, effective May 30, 1996. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 30, 2009.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities approximately three hundred dollars (\$300) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Geologist Registration, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-0661, or via email at geology@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions, and Professional Registration

Division 2145 - Missouri Board of Geologist Registration

Chapter 1 - General Rules

Proposed Amendment - 20 CSR 2145-1.040 Fees

Prepared January 22, 2009 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment.	Classification by type of the business entities which would likely be affected:	Estimated annual cost of compliance with the rule by affected entities:
12	ASBOG Examination (Exam Cancellation/Book Assessment Fee @ \$25.00)	\$300
	Estimated Annual Cost of Compliance for the Life of the Rule	\$300

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The Exam Cancellation/Book Assessment Fee is determined by the Association of State Boards of Geology and the fees are paid directly to the association.
2. It is anticipated that the total cost will recur or the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED AMENDMENT

20 CSR 2150-3.010 Applicants for Licensure as Professional Physical Therapists. The board is proposing to amend sections (2), (3), and (5); add a new section (7), and renumber the remaining sections accordingly; and amend all subsections under newly renumbered section (8).

PURPOSE: Pursuant to Senate Bill 788 (2008), this amendment requires physical therapists to pass a jurisprudence examination and submit satisfactory evidence of completion of the educational program and clarifies that the documentation to be submitted for licensure needs to be current.

(2) The applicant must furnish satisfactory evidence of completion of a program of physical therapy education approved as reputable by the board. If the applicant graduated on or before December 31, 2002, he/she must present evidence that his/her physical therapy degree is the equivalent of a bachelor's degree in physical therapy from a United States college or university. If the applicant graduated after December 31, 2002, he/she must present evidence that his/her physical therapy degree is equivalent in content to the first professional degree in physical therapy in the United States as defined by the Federation of State Boards of Physical Therapy (FSBPT) as defined in the *Coursework Evaluation Tool for the Evaluation of Foreign Educated Physical Therapist*, dated May 2004, which is incorporated herein by reference as published by the FSBPT, or its successor agency, available upon request from this office or upon request from the FSBPT, [509 Wythe Street] 124 West Street South, Third Floor, Alexandria, VA 22314, (703) 299-3100. **This rule does not incorporate any subsequent amendments or additions.** An applicant who presents satisfactory evidence of graduation from a physical therapy program approved as reputable by the Commission on Accreditation in Physical Therapy Education, or its successor, shall be deemed to have complied with the education requirements of this section.

(3) [All applicants shall have on file in the office of the executive director a photostatic copy of their certificate of graduation from a reputable physical therapy program before a license number can be issued to them.] **All applicants shall have official transcripts, with the school seal affixed, submitted from each and every college or university attended, confirming the courses taken towards their physical therapy degree, grade received per course, degree(s) awarded, and date degree(s) awarded.**

(5) All applicants shall have licensure, registration, or certification verification submitted from every [state or country] jurisdiction in which he/she has ever held privileges to practice as a physical therapist or physical therapist assistant. This verification must be submitted directly from the licensing agency and include the type of license, registration, or certification, the issue and expiration date, and information concerning any disciplinary or investigative actions. If a licensing agency refuses or fails to provide a verification, the board may consider other evidence of licensure.

(7) All applicants shall take and pass a test administered by the board on the laws and rules related to the practice of physical

therapy in Missouri. A minimum score of seventy-five percent (75%) is required to pass the examination.

[(7)](8) If the applicant is from a country in which the predominant language is not English, the applicant must provide the board with documentation of the following directly from the Educational Testing Service (ETS):

(A) A **current** Test of English as a Foreign Language (TOEFL) Certificate in which the applicant has obtained, on the TOEFL paper-based, a minimum score of 55 in each section and a total score of 560 and a **current** Test of Spoken English (TSE) Certificate in which the applicant has obtained a minimum score of 50; or

(B) A **current** TOEFL computer-based testing certificate in which the applicant has obtained a total score of 220 and a **current** Test of Spoken English (TSE) Certificate in which the applicant has obtained a minimum score of 50; or

(C) A **current** TOEFL Internet-based testing (TOEFL iBT) **certificate in which the applicant has obtained** a minimum of the following in each section: Writing 24, Speaking 26, Reading Comprehension 21, Listening Comprehension 18, and a total score of 89.

[(8)](9) An internationally-trained physical therapist applying for licensure shall present proof that he/she is licensed as a physical therapist in the country in which he/she graduated.

AUTHORITY: section[s] 334.125, RSMo 2000 and sections 334.530 [and], 334.550, and 334.687, RSMo Supp. [2006] 2008. This rule originally filed as 4 CSR 150-3.010. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed March 30, 2009.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately three thousand forty dollars and sixty-two cents (\$3,040.62) during the first year of implementation and four thousand thirty-nine dollars and five cents (\$4,039.05) beginning the second year of implementation and annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will cost private entities approximately one thousand eight hundred seventy-nine dollars and thirty-five cents (\$1,879.35) annually for the life of the rule, with an annual growth rate of one hundred ten dollars (\$110). It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2150 - State Board of Registration for the Healing Arts

Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants

Proposed Amendment - 20 CSR 2150-3.010 Applicants for Licensure as Professional Physical Therapists

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance	
State Board of Registration for the Healing Arts	Total Cost of Compliance During the First Year of Implementation of the Amendment	\$3,040.62
	Total Cost of Compliance Beginning During the Second Year of Implementation and Annually Thereafter	\$4,039.05

III. WORKSHEET

First Year of Implementation of the Rule

A commission member will be responsible for preparing the jurisprudence examination. All of the commission members will then review and approve the examination. The Administrative Coordinator for the board will add the examination to the application and send it off to print. The Graphic Arts Specialist I for the division will then prepare the form for state printing. These are all one time costs to the board.

Personal Service Dollars - One Time Costs

[illegible]

Expense and Equipment Dollars			
Item	Cost	Quantity	Total Cost Per Item
State Printing (1x Cost)	\$45.00	1	\$45.00
Letterhead	\$0.20	10	\$2.00
Total Expense and Equipment Costs for the First Year of Implementation of the Amendment			\$47.00

The form will be sent with the application packets to the licenses so there would be no additional postage costs. The board estimates that they will have to send an average of 10 letters of correspondence to applicants annually.

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
Letterhead	\$0.20	10	\$2.00
Total Annual Expense and Equipment Costs Beginning the Second Year of Implementation and Annually Thereafter for the Life of the Rule			\$2.00

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. The costs associated with processing the application is reported in the fiscal note accompanying 20 CSR 2150-3.020; and costs associated with the examination are included in the fiscal note accompanying 20 CSR 2150-3.030.
3. It is anticipated that the total cost will recur annually for the life of the rule after the first year of implementation, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE FISCAL NOTE**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2150 - State Board of Registration for the Healing Arts****Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants****Proposed Amendment - 20 CSR 2150-3.010 Applicants for Licensure as Professional Physical Therapists**

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
187	Applicants for Initial Licensure (Transcript @ \$10)	\$1,870.00
187	Applicants for Initial Licensure (Copies @ \$0.05)	\$9.35
	Estimated Annual Cost of Compliance for the Life of the Rule	\$1,879.35 with an annual growth rate of \$110

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY08 actuals. There is an expected growth of 11 applicants based on the FY06-FY08 licenses issued. This accounts for the expected growth of \$110 annually.
2. The costs associated with processing the application is reported in the fiscal note accompanying 20 CSR 2150-3.020; and costs associated with the examination are included in the fiscal note accompanying 20 CSR 2150-3.030.
3. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED AMENDMENT

20 CSR 2150-3.020 Application Forms—Physical Therapists. The board is proposing to amend sections (2) and (3) and add sections (7) and (8).

PURPOSE: This amendment further clarifies the application requirements due to the passage of Senate Bill 788 by requiring applicants to pay an application fee.

(2) No application will be considered unless fully and completely made out on the specified form, *[and]* properly attested, **and submitted with of the required application fee.**

(3) An applicant shall present with the application at least one (1) recent *[unmounted]* photograph~~[,]~~ in a size not larger than three and one-half inches by five inches (3 1/2" × 5").

(7) An applicant may withdraw his/her application for licensure anytime prior to the board's vote on his/her candidacy for licensure. In the event that an applicant withdraws his/her application, the appropriate fee established by the board will be retained.

(8) In all instances where a signature of the applicant is required, this signature must be an original signature.

AUTHORITY: section 334.125, RSMo 2000 and sections 334.530 and 334.687, RSMo Supp. 2008. This rule originally filed as 4 CSR 150-3.020. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed March 30, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities approximately nine thousand eight hundred two dollars and fifty-four cents (\$9,802.54) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PRIVATE FISCAL NOTE**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2150 - State Board of Registration for the Healing Arts****Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants****Proposed Amendment - 20 CSR 2150-3.020 Application Forms - Physical Therapists**

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
187	Applicants for Initial Licensure (Application Fee @ \$50.00)	\$9,350.00
187	Applicants for Initial Licensure (Postage @ \$0.42)	\$78.54
187	Applicants for Initial Licensure (Notary @ \$2.00)	\$374.00
	Estimated Annual Cost of Compliance for the Life of the Rule	\$9,802.54

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY08 actuals.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RESCISSION

20 CSR 2150-3.030 Examination. This rule provided specific instructions to applicants regarding examination procedures.

PURPOSE: This rule is being rescinded and readopted to clarify the instructions regarding examination procedures.

AUTHORITY: section 334.125, RSMo 2000 and sections 334.530 and 334.550, RSMo Supp. 2007. This rule originally filed as 4 CSR 150-3.030. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed March 30, 2009.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RULE

20 CSR 2150-3.030 Examination—Physical Therapists

PURPOSE: This rule provides specific instructions to applicants regarding examination procedures.

- (1) The applicant shall—
 - (A) Meet all requirements as set forth in 20 CSR 2150-3.010;
 - (B) Make application with the board; and
 - (C) Register with the Federation of State Boards of Physical Therapy (FSBPT) to sit for the licensing examination.
- (2) To receive a passing score on the examination, the applicant must achieve the criterion-referenced passing point recommended by the FSBPT. This passing point will be set equal to a scaled score of 600 based on a scale of 200 to 800. Scores from a portion of an examination taken at one (1) test administration may not be averaged with scores from any other portion of the examination taken at another test administration to achieve a passing score.

AUTHORITY: section 334.125, RSMo 2000 and sections 334.530, 334.550, and 334.687, RSMo Supp. 2008. This rule originally filed as 4 CSR 150-3.030. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the *Code of State Regulations*. Rescinded and readopted: Filed March 30, 2009.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will cost private entities approximately nine thousand eight hundred eighty-one dollars and eight cents (\$9,881.08) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

PRIVATE FISCAL NOTE**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2150 - State Board of Registration for the Healing Arts****Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants****Proposed Rule - 20 CSR 2150-3.030 Examination - Physical Therapists**

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
187	Applicants for Licensure Examination (Exam Fee @ \$50.00)	\$9,350.00
187	Applicants for Licensure Examination (Send application to the board) (Postage @ \$0.42)	\$78.54
187	Applicants for Licensure Examination (Send application to the Federation of State Boards of Physical (Postage @ \$0.42)	\$78.54
187	Applicants for Licensure Examination (Notary @ \$2.00)	\$374.00
Estimated Annual Cost of Compliance for the Life of the Rule		\$9,881.08

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY08 actuals related to the number of applicants applying for licensure by examination. This number does not include the number of reciprocity applicants that take the examination. The fiscal note accompanying 20 CSR 2150-3.040 reports those costs.
2. Fees associated with the submission of applications are reported in the fiscal note accompanying 20 CSR 2150-3.020.
3. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RESCISSION

20 CSR 2150-3.040 Licensing by Reciprocity. This rule provided information to those applicants applying for licensure as professional physical therapists by reciprocity.

PURPOSE: This rule is being rescinded and readopted to clarify the requirements for licensure as a professional physical therapist by reciprocity and also to change the title of the rule.

AUTHORITY: section 334.125, RSMo 2000. This rule originally filed as 4 CSR 150-3.040. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed July 3, 1989, effective Dec. 1, 1989. Amended: Filed June 4, 1991, effective Oct. 31, 1991. Moved to 20 CSR 2150-3.040, effective Aug. 28, 2006. Amended: Filed Dec. 14, 2007, effective June 30, 2008. Rescinded: Filed March 30, 2009.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RULE

**20 CSR 2150-3.040 Licensing by Reciprocity—Physical
Therapists**

PURPOSE: This rule provides information to those applicants applying for licensure as professional physical therapists by reciprocity.

(1) Upon proper application, the State Board of Registration for the Healing Arts may recommend for licensure without examination legally qualified persons who—

(A) Possess an active license in any state or territory of the United States or the District of Columbia authorizing them to practice in the same manner and to the same extent as professional physical therapists are authorized to practice by this act if the applicant has been successfully examined by any professional board considered competent by the State Board of Registration for the Healing Arts;

(B) Have received examination scores equivalent to those set forth

in 20 CSR 2150-3.030; and

(C) Have fulfilled all the scholastic and other requirements for licensure in Missouri.

(2) Applicants for licensure by reciprocity may be required to appear before the board in person.

AUTHORITY: section 334.125, RSMo 2000 and section 334.687, RSMo Supp. 2008. This rule originally filed as 4 CSR 150-3.040. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the *Code of State Regulations*. Rescinded and readopted: Filed March 30, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately one thousand six hundred twenty-two dollars and ninety-four cents (\$1,622.94) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately five thousand six hundred twenty-eight dollars (\$5,628) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2150 - State Board of Registration for the Healing Arts

Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants

Proposed Rule - 20 CSR 2150-3.040 Licensing by Reciprocity

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance
State Board of Registration for the Healing Arts	\$1,622.94
Total Annual Cost of Compliance for the Life of the Rule	\$1,622.94

III. WORKSHEET

The Licensure Technician II reviews the application for completion and corresponds with applicants for any additional information required by the board. The Licensure Supervisor reviews the completed application for approval. The Executive Director approves the application. The board estimates that 106 applicants will apply for licensure annually.

Personal Service Dollars

[illegible]

The board estimates that they will have to send an average of 10 letters of correspondence to applicants annually.

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
Letterhead	\$0.20	10	\$2.00
Total Annual Expense and Equipment Cost for the Life of the Rule			\$2.00

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2150 - State Board of Registration for the Healing Arts

Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants

Proposed Rule - 20 CSR 2150-3.040 Licensing by Reciprocity

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
106	Applicants for Initial Licensure (Reciprocity Fee @ \$50.00)	\$5,300.00
106	Applicants for Initial Licensure (Notary @ \$2.00)	\$212.00
1	Applicants for Licensure (Travel Expenses @ \$116.00)	\$116.00
Estimated Annual Cost of Compliance for the Life of the Rule		\$5,628.00

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY08 actuals.
2. The travel expenses are based on gas expenses for an average trip of 134 miles one way at \$0.43 per mile. It is not possible to estimate all costs (i.e. meals and lodging) that an applicant could incur in attending a meeting of the board. However, the board anticipates that this will be a one day trip for the applicant, therefore, costs should be minimal.
3. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RESCISSION

20 CSR 2150-3.050 Temporary Licenses. This rule provided information to the applicant regarding the requirements for temporary licenses.

PURPOSE: This rule is being rescinded and readopted to clarify the requirements for temporary licenses pursuant to Senate Bill 788 (2008).

AUTHORITY: section 334.125, RSMo 2000 and sections 334.530, 334.540 and 334.550, RSMo Supp. 2007. This rule originally filed as 4 CSR 150-3.050. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the Code of State Regulations. Moved to 20 CSR 2150-3.050, effective Aug. 28, 2006. Amended: Filed Dec. 14, 2007, effective June 30, 2008. Rescinded: Filed March 30, 2009.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RULE

20 CSR 2150-3.050 Temporary Licenses—Physical Therapists

PURPOSE: This rule provides information to the applicant regarding the requirements for temporary licenses.

(1) A temporary license may be issued to a first-time applicant for licensure by examination who meets the qualifications of section 334.530.1, RSMo, if the applicant—

(A) Has complied with 20 CSR 2150-3.010 and 20 CSR 2150-3.020;

(B) Submits an agreement to supervise form signed by the applicant's supervising physical therapist; and

(C) Submits a notarized statement from the supervising physical therapist stating that they are not an immediate family member of the applicant and that they have been involved in active clinical practice in the state of Missouri for a minimum of one (1) year.

(2) A temporary license will not be issued to an applicant who has failed the Missouri licensure examination or a licensure examination in any jurisdiction.

(3) Immediate family member is defined as a relative within the fourth degree of consanguinity or affinity, or of a person with whom he or she cohabits.

(A) First degree: spouse, child, parents;

(B) Second degree: grandchild, brother/sister, grandparents;

(C) Third degree: great-grandchild, niece or nephew, aunt or uncle, great-grandparents; and

(D) Fourth degree: great-great-grandchild, grandniece or grandnephew, first cousin, grandaunt or granduncle, great-great-grandparents.

(4) If the temporary licensee passes the examination within ninety (90) days of issuance of the temporary license, the temporary license shall remain valid until a permanent license is issued or denied.

(5) The temporary license shall automatically become invalid if one (1) of the following occurs:

(A) The temporary licensee fails the examination;

(B) The temporary licensee does not sit for the examination;

(C) The temporary licensee withdraws from the sitting for the examination;

(D) The board is notified by the supervising physical therapist that the temporary licensee's employment has ceased; or

(E) At the end of ninety (90) days of issuance of the temporary license.

(6) The temporary licensee may practice only under the supervision of a licensed physical therapist. Supervision shall include:

(A) Continual verbal and written contact;

(B) On-site contact every two (2) weeks; and

(C) If the supervising physical therapist determines that the temporary licensee needs additional supervision, that additional supervision shall occur on a weekly basis.

(7) The supervising physical therapist is required to report any inappropriate conduct or patient care to the board.

AUTHORITY: section 334.125, RSMo 2000 and sections 334.530, 334.550, and 334.687, RSMo Supp. 2008. This rule originally filed as 4 CSR 150-3.050. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the Code of State Regulations. Rescinded and readopted: Filed March 30, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately one thousand nine hundred seventy-four dollars and sixty-five cents (\$1,974.65) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately one thousand two hundred ninety dollars (\$1,290) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

[illegible]

The board estimates that they will have to send an average of 10 letters of correspondence to applicants annually.

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
Letterhead	\$0.20	10	\$2.00
Total Annual Expense and Equipment Cost for the Life of the Rule			\$2.00

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2150 - State Board of Registration for the Healing Arts
Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants
Proposed Rule - 20 CSR 2150-3.050 Temporary Licenses
Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
129	Applicants for Temporary Licensure (Temporary License Fee @ \$10.00)	\$1,290.00
	Estimated Annual Cost of Compliance for the Life of the Rule	\$1,290.00

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY08 actuals.
2. Not all applicants applying for the examination apply for a temporary license. Costs associated with the submission of the application (exam fee, postage, and notary) are reported in the fiscal notes accompanying 20 CSR 2150-3.020 and 20 CSR 2150-3.030.
3. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RULE

**20 CSR 2150-3.053 Temporary Licenses for Reinstatement of an
Inactive License—Physical Therapists**

PURPOSE: This rule provides information to the applicant regarding the requirements for temporary licenses for reinstatement of an inactive license.

(1) A temporary license may be issued to an applicant applying for reinstatement of an inactive license who—

(A) Submits an agreement to supervise form signed by the applicant's supervising physical therapist; and

(B) Submits a notarized statement from the supervising physical therapist stating that they are not an immediate family member of the applicant and that they have been involved in active clinical practice in the state of Missouri for a minimum of one (1) year.

(2) Immediate family member is defined as a relative within the fourth degree of consanguinity or affinity, or of a person with whom he or she cohabits.

(A) First degree: spouse, child, parents;

(B) Second degree: grandchild, brother/sister, grandparents;

(C) Third degree: great-grandchild, niece or nephew, aunt or uncle, great-grandparents; and

(D) Fourth degree: great-great-grandchild, grandniece or grandnephew, first cousin, grandaunt or granduncle, great-great-grandparents.

(3) The temporary license shall automatically become invalid if one (1) of the following occurs:

(A) The board is notified by the supervising physical therapist that the temporary licensee's employment has ceased; or

(B) At the end of one (1) year of issuance of the temporary license.

(4) The temporary licensee may practice only under the supervision of a licensed physical therapist. Supervision shall include:

(A) Continual verbal and written contact;

(B) On-site contact every two (2) weeks; and

(C) If the supervising physical therapist determines that the temporary licensee needs additional supervision, that additional supervision shall occur on a weekly basis.

(5) The supervising physical therapist is required to report any inappropriate conduct or patient care to the board within three (3) business days.

AUTHORITY: section 334.125, RSMo 2000 and sections 334.530, 334.550, and 334.687, RSMo Supp. 2008. Original rule filed March 30, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately one hundred forty-one dollars and twenty-four cents (\$141.24) for the first year of implementation of the rule and thirty-two dollars and fifty-eight cents (\$32.58) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately one hundred four dollars and eighty-four cents (\$104.84) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2150 - State Board of Registration for the Healing Arts

Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants

Proposed Rule - 20 CSR 2150-3.053 Temporary Licenses for Reinstatement of an Inactive License - Physical Therapists

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance	
State Board of Registration for the Healing Arts	Total Cost of Compliance During the First Year of Implementation of the Rule	\$141.24
	Total Cost of Compliance Beginning During the Second Year of Implementation and Annually Thereafter	\$32.58

III. WORKSHEET

First Year of Implementation of the Rule

The Administrative Coordinator drafts the application for reinstatement of an inactive license. The Executive Director will review the application before being sent to print. The Graphic Arts Specialist I prepares the form and submits to the state printshop. These are one time costs to the board.

Personal Service Dollars - One Time Costs

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER EVENT	COST PER EVENT	TOTAL COST
Administrative Coordinator	\$37,968	\$56,477.40	\$27.15	\$0.45	1 Hour	\$27.15	\$27.15
Executive Director	\$76,283	\$113,470.96	\$54.55	\$0.91	15 Minutes	\$13.64	\$27.28
Graphic Arts Specialist I	\$25,800	\$38,377.50	\$18.45	\$0.31	30 Minutes	\$9.23	\$9.23

Personal Service Dollars							
STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER EVENT	COST PER EVENT	TOTAL COST
Licensure Technician II	\$24,576	\$36,556.80	\$17.58	\$0.29	30 Minutes	\$8.79	\$17.58
Licensure Supervisor	\$32,856	\$48,873.30	\$23.50	\$0.39	5 Minutes	\$1.96	\$3.92
Executive Director	\$76,283	\$113,470.96	\$54.55	\$0.91	5 Minutes	\$4.55	\$9.09
Total Annual Personal Services Costs Beginning the Second Year of Implementation of the Rule and Continuing for the Life of the Rule Thereafter							\$30.58

The form will be sent with the application packets to the licenses so there would be no additional postage costs. The board estimates that they will have to send an average of 10 letters of correspondence to applicants annually.

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
Letterhead	\$0.20	10	\$2.00
Total Expense and Equipment Costs Beginning the Second Year of Implementation of the Rule and Annually Thereafter for the Life of the Rule			\$2.00

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE FISCAL NOTE**I. RULE NUMBER**

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2150 - State Board of Registration for the Healing Arts
Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants
Proposed Rule - 20 CSR 2150-3.053 Temporary Licenses for Reinstatement of an Inactive License - Physical Therapists

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
2	Applicants (Reinstatement of an Inactive License Fee @ \$50.00)	\$100.00
2	Applicants (Postage @ \$0.42)	\$0.84
2	Applicants (Notary @ \$2.00)	\$4.00
	Estimated Annual Cost of Compliance for the Life of the Rule	\$104.84

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY08 actuals.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RULE

20 CSR 2150-3.055 Inactive License—Physical Therapists

PURPOSE: This rule provides the requirements physical therapists must follow to request inactive status.

(1) Licensees shall make application for an inactive license upon a form prepared by the board.

(2) No application will be considered unless fully and completely made out on the specified form and properly attested.

(3) All applications shall be sent to the Missouri State Board of Registration for the Healing Arts, PO Box 4, Jefferson City, MO 65102.

(4) To be eligible for an inactive license, licensee must hold a current and active license to practice as a physical therapist in the state of Missouri and shall not be under investigation by the board or involved in pending disciplinary proceedings.

AUTHORITY: section 334.125, RSMo 2000 and sections 334.525 and 334.687, RSMo Supp. 2008. Original rule filed March 30, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately one thousand six hundred eighty-four dollars and forty-five cents (\$1,684.45) for the first year of implementation and four hundred thirty dollars and seventeen cents (\$430.17) beginning the second year of implementation and annually thereafter for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately eleven dollars and seventy-six cents (\$11.76) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC FISCAL NOTE**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2150 - State Board of Registration for the Healing Arts****Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants****Proposed Rule - 20 CSR 2150-3.055 Inactive License - Physical Therapists**

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance	
State Board of Registration for the Healing Arts	Total Cost of Compliance During the First Year of Implementation of the Rule	\$1,684.45
	Total Cost of Compliance Beginning During the Second Year of Implementation and Annually Thereafter	\$430.17

III. WORKSHEET**First Year of Implementation of the Rule**

The Administrative Coordinator drafts the application for an inactive license. The Executive Director will review the application before being sent to print. The Graphic Arts Specialist I prepares the form and submits to the state printshop. These are one time costs to the board.

Personal Service Dollars - One Time Costs

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER EVENT	COST PER EVENT	TOTAL COST
Administrative Coordinator	\$37,968	\$56,477.40	\$27.15	\$0.45	1 Hour	\$27.15	\$27.15
Executive Director	\$76,283	\$113,470.96	\$54.55	\$0.91	15 Minutes	\$13.64	\$27.28
Graphic Arts Specialist I	\$25,800	\$38,377.50	\$18.45	\$0.31	30 Minutes	\$9.23	\$9.23

Personal Service Dollars - Processing of Applications.

The board estimates that they will have to send an average of 10 letters of correspondence to applicants annually.

Item	Cost	Quantity	Total Cost Per Item
State Printing (1x Cost)	\$45.00	1	\$45.00
Letterhead	\$0.20	10	\$2.00
Total Expense and Equipment Costs for the First Year of Implementation of the Rule			\$47.00

The Licensure Technician II reviews the applications for completion and prepares and corresponds with the applicant for any additional information required by the board. The Licensure Supervisor reviews completed applications for approval. The Executive Director approves the applications. The board estimates that 28 applicants will apply for an inactive license annually.

[illegible]

The form will be sent to state printing to prepare for distribution to the applicants. The board estimates that they will have to send an average of 10 letters of correspondence to applicants annually.

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
Letterhead	\$0.20	10	\$2.00
Total Expense and Equipment Costs Beginning the Second Year of Implementation of the Rule and Annually Thereafter for the Life of the Rule			\$2.00

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional
Division 2150 - State Board of Registration for the Healing Arts
Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants
Proposed Rule - 20 CSR 2150-3.055 Inactive License - Physical Therapists
Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
28	Applicants for Inactive Licensure (Postage @ \$0.42)	\$11.76
	Estimated Annual Cost of Compliance for the Life of the Rule	\$11.76

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY08 actuals.
2. No application fees are reported because the board does not charge a fee for inactive licensure.
3. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RULE

**20 CSR 2150-3.057 Reinstatement of an Inactive License—
Physical Therapists**

PURPOSE: This rule specifies the requirements physical therapists must follow to request reinstatement of a license that has been inactive.

- (1) All applicants shall make application for reinstatement of an inactive license upon a form prepared by the board.
- (2) No application will be considered unless fully and completely made out on the specified form and properly attested.
- (3) All applications shall be sent to the Missouri State Board of Registration for the Healing Arts, PO Box 4, Jefferson City, MO 65102.
- (4) All applicants for reinstatement of an inactive license must submit a fee as specified in 20 CSR 2150-3.080.
- (5) No application will be processed prior to the submission of the required fee in the appropriate form.
- (6) All applicants must submit an activity statement documenting all employment and professional and nonprofessional activities since the date the license was placed on inactive status.
- (7) All applicants shall have licensure, registration, or certification verification submitted from every jurisdiction in which the applicant has ever held privileges to practice as a physical therapist. This verification must be submitted directly from the licensing agency and include the type of license, registration, or certification, the issue and expiration date, and information concerning any disciplinary or investigative actions. If a licensing agency refuses or fails to provide verification, the board may consider other evidence of licensure.
- (8) An applicant for reinstatement of an inactive license, who has not actively practiced as a physical therapist in another jurisdiction throughout the period their Missouri license was inactive, shall submit upon request any documentation requested by the board necessary to verify that the applicant is competent to practice in Missouri. Such documentation may include sixty (60) hours of continuing education obtained within the four (4) years immediately preceding the issuance of the license and/or one (1) year of supervised practice and/or successful completion of the National Physical Therapy Examination. Any continuing education obtained pursuant to reissuance of a license shall be completely separate from continuing education that was previously counted towards mandatory continuing education when the applicant was previously licensed.

AUTHORITY: section 334.125, RSMo 2000 and sections 334.525 and 334.687, RSMo Supp. 2008. Original rule filed March 30, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately one hundred forty-one dollars and twenty-four cents (\$141.24) for the first year of implementation and thirty-two dollars and fifty-eight cents (\$32.58) during the second year of implementation and annually thereafter for the life of the

rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately two thousand four hundred seventy-four dollars and eighty-four cents (\$2,474.84) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2150 - State Board of Registration for the Healing Arts

Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants

Proposed Rule - 20 CSR 2150-3.057 Reinstatement of an Inactive License - Physical Therapists

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance	
State Board of Registration for the Healing Arts	Total Cost of Compliance During the First Year of Implementation of the Rule	\$141.24
	Total Cost of Compliance Beginning During the Second Year of Implementation and Annually Thereafter	\$32.58

III. WORKSHEET

First Year of Implementation of the Rule

The Administrative Coordinator drafts the application for reinstatement of an inactive license. The Executive Director will review the application before being sent to print. The Graphic Arts Specialist I prepares the form and submits to the state printshop. These are one time costs to the board.

Personal Service Dollars

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER EVENT	COST PER EVENT	TOTAL COST
Administrative Coordinator	\$37,968	\$56,477.40	\$27.15	\$0.45	1 Hour	\$27.15	\$27.15
Executive Director	\$76,283	\$113,470.96	\$54.55	\$0.91	15 Minutes	\$13.64	\$27.28
Graphic Arts Specialist I	\$25,800	\$38,377.50	\$18.45	\$0.31	30 Minutes	\$9.23	\$9.23

[illegible]

The form will be sent with the application packets to the licenses so there would be no additional postage costs. The board estimates that they will have to send an average of 10 letters of correspondence to applicants annually.

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
Letterhead	\$0.20	10	\$2.00
Total Expense and Equipment Costs Beginning the Second Year of Implementation of the Rule and Annually Thereafter for the Life of the Rule			\$2.00

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE FISCAL NOTE**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2150 - State Board of Registration for the Healing Arts****Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants****Proposed Rule - 20 CSR 2150-3.057 Reinstatement of an Inactive License - Physical Therapists**

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
2	Applicants for Reinstatement of Inactive License (Reinstatement Fee @ \$50.00)	\$100.00
2	Applicants for Reinstatement of Inactive License (Postage @ \$0.42)	\$0.84
2	Applicants for Reinstatement of Inactive License (Notary @ \$2.00)	\$4.00
2	Late Registration Applicants (3 Verifications @ \$15.00/per form)	\$90.00
2	Applicants for Reinstatement of Inactive License (60 Continuing Education Hours @ \$19.00/HR)	\$2,280.00
	Estimated Annual Cost of Compliance for the Life of the Rule	\$2,474.84

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY08 actuals.
2. The board estimates that an average of three verifications will be requested by the applicant. It is anticipated that each verification will cost approximately \$15.00 per verification.
3. Travel costs to obtain continuing education credits are not included because online courses are accepted by the board.
4. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RESCISSION

20 CSR 2150-3.060 Biennial Registration. This rule provided information to professional physical therapists permanently licensed in Missouri regarding biennial registration.

PURPOSE: This rule is being rescinded and readopted to clarify the requirements for physical therapists permanently licensed in Missouri regarding biennial registration.

AUTHORITY: sections 334.125, 334.570, and 334.675, RSMo 2000. This rule originally filed as 4 CSR 150-3.060. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed March 30, 2009.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RULE

20 CSR 2150-3.060 Biennial Registration

PURPOSE: This rule provides information to professional physical therapists permanently licensed in Missouri regarding biennial registration.

(1) Each applicant shall renew the registration with the board upon a form furnished by the board before January 31 of the year the license is due for renewal.

(2) Renewal forms postmarked by the post office February 1 or after will be considered delinquent, however, should January 31 fall on a Saturday, Sunday, or legal holiday, renewal forms postmarked by the post office on the next business day will not be considered delinquent.

(3) The failure to provide the application form or the failure to receive the renewal application form does not relieve any licensee of the duty to renew the license and pay the renewal fee, nor shall it exempt any licensee from the penalties provided in sections 334.500 to 334.620, RSMo, for failure to renew.

(4) Prior to renewal of the license, licensees may be required to take and pass a test administered by the board on the laws and rules related to the practice of physical therapy in Missouri. A minimum score of seventy-five percent (75%) is required to pass the examination.

AUTHORITY: section 334.125, RSMo 2000 and sections 334.570, 334.675, and 334.687, RSMo Supp. 2008. This rule originally filed as 4 CSR 150-3.060. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the *Code of State Regulations*. Rescinded and readopted: Filed March 30, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately eight thousand seven hundred sixty-six dollars and ninety cents (\$8,766.90) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately two hundred thirty-one thousand four hundred twenty-seven dollars and eighty cents (\$231,427.80) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2150 - State Board of Registration for the Healing Arts

Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants

Proposed Amendment - 20 CSR 2150-3.060 Biennial Registration

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance
State Board of Registration for the Healing Arts	\$8,766.90
Total Biennial Cost of Compliance for the Life of the Rule	\$8,766.90

III. WORKSHEET

The Office Support Assistant for the division's central processing unit verifies the renewals for completion and enters them into the licensing system. The board estimates 4590 applicants will apply for renewal biennially.

Personal Service Dollars

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER EVENT	COST PER EVENT	TOTAL COST
Office Support Assistant	\$24,168	\$35,949.90	\$17.28	\$0.29	5 Minutes	\$1.44	\$6,609.60
Total Biennial Personal Services Costs for the Life of the Rule							\$6,609.60

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
Postage	\$0.42	4590	\$1,927.80
Renewal Forms - Paper	\$0.05	4590	\$229.50
Total Biennial Expense and Equipment Costs for the Life of the Rule			\$2,157.30

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. It is anticipated that the total cost will recur biennially for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE FISCAL NOTE**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2150 - State Board of Registration for the Healing Arts****Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants****Proposed Amendment - 20 CSR 2150-3.060 Biennial Registration**

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
4,590	Applicants for Renewal (Renewal Fee @ \$50)	\$229,500.00
4,590	Applicants for Renewal (Postage @ \$0.42)	\$1,927.80
	Estimated Biennial Cost of Compliance for the Life of the Rule	\$231,427.80

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY08 actuals.
2. It is anticipated that the total cost will recur biennially for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RULE

20 CSR 2150-3.063 Physical Therapist Late Registration

PURPOSE: This rule provides the requirements physical therapists must follow to request renewal of a license which has lapsed for more than six (6) months.

(1) All licensees whose registration has lapsed for six (6) months or more shall make application for late registration upon a form prepared by the board.

(2) No application will be considered unless fully and completely made out on the specified form and properly attested.

(3) All licensees must provide, on the application form, a recent photograph, in size no larger than three and one-half inches by five inches (3 1/2" × 5").

(4) All applications shall be sent to the Missouri State Board of Registration for the Healing Arts, PO Box 4, Jefferson City, MO 65102.

(5) All applicants for late registration must submit the renewal fee along with the delinquent fee established by the board.

(6) No application will be processed prior to the submission of the required fee in the appropriate form.

(7) All applicants must submit an activities statement documenting all employment, professional and nonprofessional activities, since the date the license lapsed.

(8) All applicants shall have licensure, registration or certification verification submitted from every jurisdiction in which the applicant has ever held privileges to practice as a physical therapist or physical therapist assistant. This verification must be submitted directly from the licensing agency and include the type of license, registration or certification, the issue and expiration date, and information concerning any disciplinary or investigative actions. If a licensing agency refuses or fails to provide verification, the board may consider other evidence of licensure.

(9) An applicant for late registration whose license has been lapsed for more than two (2) years who was not actively practicing as a physical therapist in another jurisdiction shall submit upon request any other documentation requested by the board necessary to verify that the licensee is competent to practice and is knowledgeable of current physical therapy techniques, procedures, and treatments, as evidenced by continuing education hours, reexamination, or other applicable documentation accepted and approved by the board.

AUTHORITY: section 334.125, RSMo 2000 and sections 334.570 and 334.687, RSMo Supp. 2008. Original rule filed March 30, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately two hundred thirty-one dollars and ninety-nine cents (\$231.99) for the first year of implementation and one hundred twenty-four dollars and thirty-three cents (\$124.33) during the second year of implementation and annually thereafter for

the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately nine hundred ninety-five dollars and thirty-six cents (\$995.36) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER**Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2150 - State Board of Registration for the Healing Arts****Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants****Proposed Rule - 20 CSR 2150-3.063 Physical Therapist Late Registration**

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance	
State Board of Registration for the Healing Arts	Total Cost of Compliance During the First Year of Implementation of the Rule	\$231.99
	Total Cost of Compliance Beginning During the Second Year of Implementation and Annually Thereafter	\$124.33

III. WORKSHEET**First Year of Implementation of the Rule**

The Administrative Coordinator drafts the application for late registration. The Executive Director will review the application before being sent to print. The Graphic Arts Specialist I prepares the form and submits to the state printshop. These are one time costs to the board.

Personal Service Dollars - One Time Costs

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER EVENT	COST PER EVENT	TOTAL COST
Administrative Coordinator	\$37,968	\$56,477.40	\$27.15	\$0.45	1 Hour	\$27.15	\$27.15
Executive Director	\$76,283	\$113,470.96	\$54.55	\$0.91	15 Minutes	\$13.64	\$27.28
Graphic Arts Specialist I	\$25,800	\$38,377.50	\$18.45	\$0.31	30 Minutes	\$9.23	\$9.23

Personal Service Dollars - Processing Applications

The board estimates that they will have to send an average of 5 letters of correspondence to applicants annually.

Second Year of Implementation of the Rule and Thereafter

Personal Service Dollars

[illegible]

The board estimates that they will have to send an average of 10 letters of correspondence to applicants annually.

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
Letterhead	\$0.20	10	\$2.00
Total Expense and Equipment Costs Beginning the Second Year of Implementation of the Rule and Annually Thereafter for the Life of the Rule			\$2.00

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2150 - State Board of Registration for the Healing Arts

Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants

Proposed Rule - 20 CSR 2150-3.063 Physical Therapist Late Registration

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
8	Late Registration Applicants (Reinstatement Fee @ \$50.00)	\$400.00
8	Late Registration Applicants (Delinquency Fee @ \$20.00)	\$160.00
8	Late Registration Applicants (Postage @ \$0.42)	\$3.36
8	Late Registration Applicants (Notary @ \$2.00)	\$16.00
8	Late Registration Applicants (Photo @ \$7.00)	\$56.00
8	Late Registration Applicants (3 Verifications @ \$15.00/per form)	\$360.00
Estimated Annual Cost of Compliance for the Life of the Rule		\$995.36

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY08 actuals.
2. The board estimates that an average of three verifications will be requested by the applicant. It is anticipated that each verification will cost approximately \$15.00.
3. Travel costs to obtain continuing education credits are not included because online courses are accepted by the board.

4. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RULE

**20 CSR 2150-3.066 Physical Therapist—Retirement, Name and
Address Changes**

PURPOSE: This rule provides information regarding the requirements for retirement and notification of name and address changes.

(1) Licensees must submit written notification of any address change to the board within fifteen (15) days of such occurrence.

(2) A licensee whose name has changed since licensure was issued must submit a copy of the legal document verifying the name change to the board within fifteen (15) days of such occurrence.

(3) Licensees who retire from practice as a physical therapist shall file an affidavit, on a form furnished by the board, stating the date of retirement. Licensees shall submit documentation verifying retirement as requested by the board. Licensees who reengage in the practice of physical therapy after submitting an affidavit of retirement shall reapply for licensure as required in sections 334.600 and 334.610, RSMo, and pursuant to the provisions of 20 CSR 2150-3.063.

AUTHORITY: section 334.125, RSMo 2000 and section 334.687, RSMo Supp. 2008. Original rule filed March 30, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately one hundred seventy-six dollars and sixteen cents (\$176.16) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately forty-four dollars and thirty-eight cents (\$44.38) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

[illegible]

The board estimates that they will have to send an average of 10 letters of correspondence to applicants annually.

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
Letterhead	\$0.20	10	\$2.00
Total Annual Expense and Equipment Costs for the Life of the Rule			\$2.00

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE FISCAL NOTE**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2150 - State Board of Registration for the Healing Arts****Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants****Proposed Rule - 20 CSR 2150-3.066 Physical Therapist - Retirement, Name and Address Changes**

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
2	Licenseses w/ Address Changes (Postage @ \$0.42)	\$0.84
36	Licenseses w/ Name Changes (Postage @ \$0.42)	\$15.12
36	Licenseses w/ Name Changes (Copies @ \$0.05)	\$1.80
11	Applicants for Retirement (Postage @ \$0.42)	\$4.62
11	Applicants for Retirement (Notary @ \$2.00)	\$22.00
Estimated Annual Cost of Compliance for the Life of the Rule		\$44.38

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY06-FY08 actuals.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED AMENDMENT

20 CSR 2150-3.080 Fees. The board is proposing to add subsection (1)(H), reletter the subsection thereafter, add a new section (3), and renumber the remaining section accordingly.

PURPOSE: This amendment establishes a fee to reinstate a license that has been inactive.

(1) The following fees are established by the State Board of Registration for the Healing Arts, and are payable in the form of a cashier's check or money order:

(H) Reinstatement of an Inactive License Fee	\$50
[(H)](I) Returned Check Fee	\$25

(3) All fees shall be drawn on a United States bank.

[[3]](4) The provisions of this rule are declared severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

AUTHORITY: sections 334.090[.1, 334.090.2], 334.125, [334.507,] and 334.580, RSMo 2000 and sections 334.540, 334.550, 334.560, and 334.687, RSMo Supp. 2008. This rule originally filed as 4 CSR 150-3.080. Original rule filed Aug. 10, 1983, effective Nov. 11, 1983. For intervening history, please consult the Code of State Regulations. Amended: Filed March 30, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RULE

20 CSR 2150-3.085 Determination of Competency

PURPOSE: Due to the passage of Senate Bill 788, this rule complies with the provisions of section 334.613.2(24), RSMo, and specifies the procedures to be followed under this statute in determining competency.

(1) Whenever the board has reason to believe that a physical therapist or physical therapist assistant is unable to practice with reasonable skill and safety due to reasons of incompetency, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition, the board may hold a hearing to determine whether probable cause exists to reexamine to establish competency, to examine a pattern and practice of professional conduct, or to examine to determine mental or physical competency, or both.

(2) Notice of the probable cause hearing shall be served on the licensee within a reasonable amount of time before the hearing, but in no event later than ten (10) days before the hearing.

(3) Following the probable cause hearing and upon a finding by the board that probable cause exists to determine a physical therapist's or physical therapist assistant's competency, the board shall issue an order setting forth the allegations leading to a finding of probable cause, the method of further determination of competency and the time frame for determination. The method of determination of competency may include taking the national licensure examination or other examination approved by the board or submitting to a multidisciplinary evaluation by a facility or professional approved by the board.

AUTHORITY: section 334.125, RSMo 2000 and sections 334.615 and 334.687, RSMo Supp. 2008. Original rule filed March 30, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately two hundred forty-eight dollars and thirteen cents (\$248.13) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately nine hundred sixty-six dollars to five thousand six hundred sixteen dollars (\$966-\$5,616) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2150 - State Board of Registration for the Healing Arts

Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants

Proposed Amendment - 20 CSR 2150-3.085 Determination of Competency

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance
State Board of Registration for the Healing Arts	\$248.13
Total Annual Cost of Compliance for the Life of the Rule	\$248.13

III. WORKSHEET

The Office Support Assistant sends out the notice of a probable cause hearing. The paralegal prepares the file for review. The commission and board members each review the case.

Personal Service Dollars

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER EVENT	COST PER EVENT	TOTAL COST
Office Support Assistant	\$22,680	\$33,736.50	\$16.22	\$0.27	2 Minutes	\$0.54	\$0.54
Paralegal	\$28,596	\$42,536.55	\$20.45	\$0.34	30 Minutes	\$10.23	\$10.23
Commission and Board Members (15 Members)	n/a	n/a	\$6.25	\$0.10	10 Minutes	\$15.63	\$15.63

If the board finds cause to discipline the license, the board legal counsel drafts a notice of the hearing. The executive director reviews the draft. The board members, executive director, and the board attorney attend the hearing. For the purposes of this fiscal note, the board estimates that one hearing will be held annually.

Personal Service Costs - Competency Hearing

Legal Counsel	\$55,167	\$82,060.91	\$39.45	\$0.66	30 Minutes	\$19.73	\$19.73
Executive Director	\$76,283	\$113,470.96	\$54.55	\$0.91	15 Minutes	\$13.64	\$13.64
Commission and Board Members (15 Members)	n/a	n/a	\$6.25	\$0.10	1 Hour	\$93.75	\$93.75
Executive Director	\$76,283	\$113,470.96	\$54.55	\$0.91	1 Hour	\$54.55	\$54.55
Legal Counsel	\$55,167	\$82,060.91	\$39.45	\$0.66	1 Hour	\$39.45	\$39.45
			Total Annual Personal Services Costs for the Life of the Rule				\$247.51

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
Letterhead	\$0.20	1	\$0.20
Postage	\$0.42	1	\$0.42
Total Annual Expense and Equipment Costs for the Life of the Rule			\$0.62

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE FISCAL NOTE**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2150 - State Board of Registration for the Healing Arts****Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants****Proposed Amendment - 20 CSR 2150-3.085 Determination of Competency**

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
1	Active Licensees (Travel Expenses @ \$116.00)	\$116.00
1	Active Licensees (6 Hours Attorney Fees @ \$105.00/Hour)	\$500.00
1	Active Licensees (National Exam @ \$350.00-5,000.00)	\$350.00-\$5,000.00
	Estimated Annual Cost of Compliance for the Life of the Rule	\$966.00-\$5,616.00

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY06-FY08 actuals.
2. The travel expenses are based on gas expenses for an average trip of 134 miles one way at \$0.43 per mile. It is not possible to estimate all costs (i.e. meals and lodging) that an applicant could incur in attending a meeting of the board. However, the board anticipates that this will be a one day trip for the applicant, therefore, costs should be minimal.
3. The board estimates the hourly attorney fee will be approximately \$105.00 per hour which includes travel expenses.

4. The board estimates the fee for a licensee to take the national licensure examination, other examination or submitting to a multidisciplinary evaluation can range from \$350.00 to \$5,000.00.
5. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED AMENDMENT

20 CSR 2150-3.090 Physical Therapist Assistants—Direction, Delegation, and Supervision. The board is proposing to amend section (2) and delete subsection (3)(F).

PURPOSE: Due to the passage of Senate Bill 788 (2008), this amendment determines the amount of full-time equivalent physical therapist assistants that a physical therapist can supervise.

(2) The number of physical therapist assistants that a licensed physical therapist can supervise **should not exceed four (4) full-time equivalent physical therapist assistants** and shall be predicated on the following factors: the complexity and acuity of the patient's needs, proximity and accessibility to the physical therapist.

(3) When supervising the physical therapist assistant, the following requirements must be maintained:

(D) A licensed physical therapist must be accessible by telecommunication to the physical therapist assistant at all times while the physical therapist assistant is treating patients; **and**

(E) A supervisory visit should include: an on-site reassessment of the patient, on-site review of the plan of care with appropriate revision or termination, and assessment for the utilization of outside resources. On-site shall be defined as wherever it is required to have an on-site licensed physical therapist to provide services; **and**.

[(F) No physical therapist may establish a treating office in which the physical therapist assistant is the primary care provider.]

AUTHORITY: sections 334.125, RSMo 2000 and sections 334.500, 334.650, and 334.687, RSMo Supp. 2008. This rule originally filed as 4 CSR 150-3.090. Original rule filed Dec. 14, 1994, effective June 30, 1995. Amended: Filed Nov. 16, 1998, effective July 30, 1999. Moved to 20 CSR 2150-3.090, effective Aug. 28, 2006. Amended: Filed July 11, 2007, effective Jan. 30, 2008. Amended: Filed March 30, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED AMENDMENT

20 CSR 2150-3.100 Applications for Licensure as Physical Therapist Assistant. The board is proposing to amend sections (3), (5), and (7) and add section (9).

PURPOSE: Due to the passage of Senate Bill 788, this amendment adds that the applicant shall pass a test administered by the board on the laws and rules related to the practice of physical therapy in Missouri and further clarifies the application requirements for licensure.

(3) All applicants must provide, on the application form, a recent *[unmounted]* photograph, in size no larger than three and one-half inches by five inches (3 1/2" × 5").

(5) The board shall charge each person applying for licensure to practice as a physical therapist assistant, either by examination, reciprocity, or without examination prior to the expiration of the grandfather clause, an appropriate fee established by the board. *[The fee shall be sent in the form of a cashier's check or money order drawn on a United States bank.]*

(7) An applicant may withdraw his/her application for licensure any time prior to the board's vote on his/her candidacy for licensure. In the event that an applicant withdraws his/her application, the appropriate fee established by the board will be retained *[as a service charge]*.

(9) All applicants shall take and pass a test administered by the board on the laws and rules related to the practice of physical therapy in Missouri. A minimum score of seventy-five percent (75%) is required to pass the examination.

AUTHORITY: section[s] 334.125, [and 334.670,] RSMo [Supp. 1997] 2000 and sections 334.650, 334.655, 334.660, 334.670, and 334.687, RSMo Supp. 2008. This rule originally filed as 4 CSR 150-3.100. Original rule filed Sept. 4, 1997, effective March 30, 1998. Moved to 20 CSR 2150-3.100, effective Aug. 28, 2006. Amended: Filed March 30, 2009.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately nine hundred sixty-three dollars and thirty-one cents (\$963.31) for the first year of implementation and eight hundred seventy-three dollars and sixty-four cents (\$873.64) during the second year of implementation and annually thereafter for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2150 - State Board of Registration for the Healing Arts

Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants

Proposed Amendment - 20 CSR 2150-3.100 Applications for Licensure as a Physical Therapist Assistant

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance	
State Board of Registration for the Healing Arts	Total Cost of Compliance During the First Year of Implementation of the Amendment	\$963.31
	Total Cost of Compliance Beginning During the Second Year of Implementation and Annually Thereafter	\$873.64

III. WORKSHEET

First Year of Implementation of the Rule

The commission chair will prepare the jurisprudence examination and the entire commission will review it. The Administrative Coordinator for the board will add the examination to the application and send it off to print. The Graphic Arts Specialist I prepares the form and submits to the state printshop. These are one time costs to the board.

Personal Service Dollars - One Time Costs

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER EVENT	COST PER EVENT	TOTAL COST
Commission Member (1)	n/a	n/a	\$6.25	\$0.10	1 Hour	\$6.25	\$6.25
Commission Members (5)	n/a	n/a	\$6.25	\$0.10	30 Minutes	\$3.13	\$15.63
Administrative Coordinator	\$37,968	\$56,477.40	\$27.15	\$0.45	30 Minutes	\$13.58	\$13.58
Graphic Arts Specialist I	\$25,800	\$38,377.50	\$18.45	\$0.31	30 Minutes	\$9.23	\$9.23

[illegible]

The board estimates that they will have to send an average of 10 letters of correspondence to applicants annually.

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
Letterhead	\$0.20	10	\$2.00
Total Annual Expense and Equipment Costs Beginning the 2nd Year of Implementation and Annually Thereafter for the Life of the Rule			\$2.00

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. It is anticipated that the total cost will recur biennially for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED AMENDMENT

20 CSR 2150-3.110 Physical Therapist Assistant Requirements for Licensing by Examination. The board is proposing to delete section (4), renumber the remaining sections accordingly, and delete sections (10) and (11).

PURPOSE: Due to the passage of Senate Bill 788, this amendment removes a provision that denies a license to those who have failed a licensing examination three (3) or more times and further clarifies the requirements for licensure by examination.

[(4)] All applicants must submit a photostatic copy of their professional diploma as evidence of completion of an associate degree program of physical therapy education accredited by the Commission on Accreditation of Physical Therapy Education.]

[(5)](4) All applicants shall have official transcripts, with the school seal affixed, submitted from each and every college or university attended, confirming the courses taken **towards their associate degree program in physical therapist assistant**, grade received per course, degree(s) awarded, and date degree(s) awarded.

[(6)](5) All applicants must submit a copy of any and all legal name change documents incurred since birth.

[(7)](6) All applicants shall have licensure, registration, or certification verification submitted from every *[state or country]* **jurisdiction** in which *[s/he]* **the applicant** has ever held privileges to practice as a physical therapist or physical therapist assistant. This verification must be submitted directly from the licensing agency and include the type of license, registration, or certification, the issue and expiration date, and information concerning any disciplinary or investigative actions. **If a licensing agency refuses or fails to provide verification, the board may consider other evidence of licensure.**

[(8)](7) All applicants must submit an activities statement documenting all employment[,] **and** professional and nonprofessional activities, from high school graduation to the date of licensure application, or for the last ten (10) years, whichever is the most recent.

[(9)](8) To receive a passing score on the examination, the applicant must achieve the criterion referenced passing point recommended by the FSBPT. This passing point will be set equal to a scaled score of six hundred (600) based on a scale of two hundred (200) to eight hundred (800). Scores from a portion of an examination taken at one (1) administration may not be averaged with scores from any other portion of the examination taken at another test administration to achieve a passing score.

[(10)] **The board shall not issue a license to practice as a physical therapist assistant or allow any person to sit for the Missouri state board examination for physical therapist assistants who has failed three (3) or more times any physical therapist licensing examination administered in one (1) or more states or territories of the United States or the District of Columbia.**

(11) **The board may waive the provisions of section (10) if the applicant has met the following provisions: the applicant is licensed and has maintained an active clinical practice for the previous three (3) years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia or Canada and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada.]**

AUTHORITY: section[s] 334.125, RSMo 2000 and sections 334.650, 334.655, 334.670, **and 334.687**, RSMo Supp [2005] 2008. This rule originally filed as 4 CSR 150-3.110. Original rule filed Sept. 4, 1997, effective March 30, 1998. Amended: Filed Jan. 3, 2006, effective June 30, 2006. Moved to 20 CSR 2150-3.110, effective Aug. 28, 2006. Amended: Filed March 30, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED AMENDMENT

20 CSR 2150-3.120 Physical Therapist Assistant Reciprocity Applicants. The board is proposing to amend sections (4), (6), and (7), delete section (8), and renumber the remaining section accordingly.

PURPOSE: This amendment adds an alternative for an applicant to provide evidence of licensure if a licensing agency refuses or fails to provide verification. It also deletes the portion of the rule that requires the applicant to provide a copy of their professional diploma, along with rule clean-up.

(4) All applicants shall have licensure, registration, or certification verification submitted from every state in which *[s/he]* **the applicant** has ever held privileges to practice as a physical therapist or physical therapist assistant. This verification must be submitted directly from the licensing agency and include the type of license, registration, or certification, the issue and expiration date, and information concerning any disciplinary or investigative actions. **If a licensing agency refuses or fails to provide verification, the board may consider other evidence of licensure.**

(6) All applicants must submit an activities statement documenting all employment[,/ and professional and nonprofessional activities, from high school graduation to the date of licensure application or the past ten (10) years, whichever is the most recent.

(7) All applicants shall submit official transcripts, with the school seal affixed, from each and every college or university attended, confirming the courses taken **towards their associate degree program**, grade received per course, degree(s) awarded, and date degree(s) awarded.

[(8) All applicants must submit a photostatic copy of their professional diploma as evidence of completion of an associate degree program of physical therapy education accredited by the Commission on Accreditation of Physical Therapy Education, or its successor.]

[(9)](8) All applicants must submit a copy of any and all legal name change documents incurred since birth.

AUTHORITY: sections 334.125 and 334.670, RSMo [Supp. 1997] 2000 and sections 334.655, 334.660, and 334.687, RSMo Supp. 2008. This rule originally filed as 4 CSR 150-3.120. Original rule filed Sept. 4, 1997, effective March 30, 1998. Moved to 20 CSR 2150-3.120, effective Aug. 28, 2006. Amended: Filed March 30, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts
Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RESCISSION

**20 CSR 2150-3.150 Physical Therapist Assistant Temporary
Licensure**

PURPOSE: This rule provided the requirements for temporary licensure to practice as a physical therapist assistant.

AUTHORITY: sections 334.125, 334.650, and 334.670, RSMo 2000 and section 334.665, RSMo Supp. 2007. This rule originally filed as 4 CSR 150-3.150. Original rule filed Sept. 4, 1997, effective March 30, 1998. Amended: Filed Jan. 3, 2006, effective June 30, 2006. Moved to 20 CSR 2150-3.150, effective Aug. 28, 2006. Amended: Filed Dec. 14, 2007, effective June 30, 2008. Rescinded: Filed March 30, 2009.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts
Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RULE

**20 CSR 2150-3.150 Physical Therapist Assistant Temporary
Licensure**

PURPOSE: This rule provides the requirements for temporary licensure to practice as a physical therapist assistant.

(1) A temporary license may be issued to a first-time applicant for licensure by examination who—

- (A) Meets the qualifications of section 334.655, RSMo;
- (B) Submits an agreement to supervise form signed by the applicant's supervising physical therapist; and
- (C) Submits a notarized statement from the supervising physical therapist stating that they are not an immediate family member of the applicant and that they have been involved in active clinical practice in the state of Missouri for a minimum of one (1) year.

(2) A temporary license will not be issued to an applicant who has failed the Missouri licensure examination or a licensure examination in any jurisdiction.

(3) Immediate family member is defined as a relative within the fourth degree of consanguinity or affinity, or of a person with whom he or she cohabits.

- (A) First degree: spouse, child, parents;
- (B) Second degree: grandchild, brother/sister, grandparents;
- (C) Third degree: great-grandchild, niece or nephew, aunt or uncle, great-grandparents; and
- (D) Fourth degree: great-great-grandchild, grandniece or grandnephew, first cousin, grandaunt or granduncle, great-great-grandparents.

(4) If the temporary licensee passes the examination within ninety (90) days of issuance of the temporary license, the temporary license shall remain valid until a permanent license is issued or denied.

(5) The temporary license shall automatically become invalid if one

(1) of the following occurs:

- (A) The temporary licensee fails the examination;
- (B) The temporary licensee does not sit for the examination;
- (C) The temporary licensee withdraws from the sitting for the examination;

(D) The board is notified by the supervising physical therapist that the temporary licensee's employment has ceased; or

(E) At the end of ninety (90) days of issuance of the temporary license.

(6) A Missouri permanently licensed physical therapist shall direct and supervise the temporarily licensed physical therapist assistant at all times, pursuant to section 334.650, RSMo, and 20 CSR 2150-3.090.

(7) The supervising physical therapist is required to report any inappropriate conduct or patient care to the board.

AUTHORITY: section 334.125, RSMo 2000 and sections 334.650, 334.665, 334.670, and 334.687, RSMo Supp. 2008. This rule originally filed as 4 CSR 150-3.150. Original rule filed Sept. 4, 1997, effective March 30, 1998. Amended: Filed Jan. 3, 2006, effective June 30, 2006. Moved to 20 CSR 2150-3.150, effective Aug. 28, 2006. Amended: Filed Dec. 14, 2007, effective June 30, 2008. Rescinded and readopted: Filed March 30, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately five hundred eight dollars and fifty-three cents (\$508.53) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately seven hundred seven dollars and ninety-four cents (\$707.94) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2150 - State Board of Registration for the Healing Arts
Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants
Proposed Rule - 20 CSR 2150-3.150 Physical Therapist Assistant Temporary Licensure
 Prepared November 12, 2008 by the Division of Professional Registration

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER EVENT	COST PER EVENT	TOTAL COST
Administrative Coordinator	\$37,968	\$56,477.40	\$27.15	\$0.45	5 Minutes	\$2.26	\$128.97
Licensure Technician II	\$24,576	\$36,556.80	\$17.58	\$0.29	10 Minutes	\$2.93	\$166.97
Licensure Supervisor	\$32,856	\$48,873.30	\$23.50	\$0.39	5 Minutes	\$1.96	\$111.61
Office Support Assistant	\$22,680	\$33,736.50	\$16.22	\$0.27	5 Minutes	\$1.35	\$77.04
			Total Annual Personal Services Costs for the Life of the Rule				\$484.59

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
Postage	\$0.42	57	\$23.94
Total Annual Expense and Equipment Costs for the Life of the Rule			\$23.94

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2150 - State Board of Registration for the Healing Arts
Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants
Proposed Rule - 20 CSR 2150-3.150 Physical Therapist Assistant Temporary Licensure
Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
57	Applicants for Temporary License (Temporary License Fee @ \$10.00)	\$570.00
57	Applicants for Temporary License (Postage @ \$0.42)	\$23.94
57	Applicants for Temporary License (Notary @ \$2.00)	\$114.00
Estimated Annual Cost of Compliance for the Life of the Rule		\$707.94

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY06-FY08 actuals.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RULE

**20 CSR 2150-3.153 Physical Therapist Assistant Temporary
Licenses for Reinstatement**

PURPOSE: Due to the passage of Senate Bill 788, this rule provides information to the applicant regarding the requirements for temporary licenses for reinstatement of an inactive license.

(1) A temporary license may be issued to an applicant applying for reinstatement of an inactive licensure who—

(A) Submits an agreement to supervise form signed by the applicant's supervising physical therapist; and

(B) Submits a notarized statement from the supervising physical therapist stating that they are not an immediate family member of the applicant and that they have been involved in active clinical practice in the state of Missouri for a minimum of one (1) year.

(2) Immediate family member is defined as a relative within the fourth degree of consanguinity or affinity, or of a person with whom he or she cohabits.

(A) First degree: spouse, child, parents;

(B) Second degree: grandchild, brother/sister, grandparents;

(C) Third degree: great-grandchild, niece or nephew, aunt or uncle, great-grandparents; and

(D) Fourth degree: great-great-grandchild, grandniece or grandnephew, first cousin, grandaunt or granduncle, great-great-grandparents.

(3) The temporary license shall automatically become invalid if one (1) of the following occurs:

(A) The board is notified by the supervising physical therapist that the temporary licensee's employment has ceased; or

(B) At the end of one (1) year of issuance of the temporary license.

(4) The temporary licensee may practice only under the on-site supervision of a licensed physical therapist.

(5) The supervising physical therapist is required to report any inappropriate conduct or patient care to the board within three (3) business days.

AUTHORITY: section 334.125, RSMo 2000 and sections 334.530, 334.550, and 334.687, RSMo Supp. 2008. Original rule filed March 30, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately one hundred forty-one dollars and twenty-four cents (\$141.24) during the first year of implementation and thirty-two dollars and fifty-eight cents (\$32.58) during the second year of implementation and annually thereafter for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately one hundred four dollars and eighty-four cents (\$104.84) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected

ed to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2150 - State Board of Registration for the Healing Arts
Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants
Proposed Rule - 20 CSR 2150-3.153 Physical Therapist Assistant Temporary Licenses for Reinstatement of a License

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance	
State Board of Registration for the Healing Arts	Total Cost of Compliance During the First Year of Implementation of the Rule	\$141.24
	Total Cost of Compliance Beginning During the Second Year of Implementation and Annually Thereafter	\$32.58

III. WORKSHEET

First Year of Implementation of the Rule

The Administrative Coordinator drafts the application for inactive reinstatement. The Executive Director will review the application before being sent to print. The Graphic Arts Specialist I prepares the form and submits to the state printshop. These are one time costs to the board.

Personal Service Dollars - One Time Costs

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER EVENT	COST PER EVENT	TOTAL COST
Administrative Coordinator	\$37,968	\$56,477.40	\$27.15	\$0.45	1 Hour	\$27.15	\$27.15
Executive Director	\$76,283	\$113,470.96	\$54.55	\$0.91	15 Minutes	\$13.64	\$27.28
Graphic Arts Specialist I	\$25,800	\$38,377.50	\$18.45	\$0.31	30 Minutes	\$9.23	\$9.23

[illegible]

The board estimates that they will have to send an average of 10 letters of correspondence to applicants annually.

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
Letterhead	\$0.20	10	\$2.00
Total Expense and Equipment Costs Beginning the Second Year of Implementation of the Rule and Annually Thereafter for the Life of the Rule			\$2.00

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE FISCAL NOTE**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2150 - State Board of Registration for the Healing Arts****Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants****Proposed Rule - 20 CSR 2150-3.153 Physical Therapist Assistant Temporary Licenses for Reinstatement of a License**

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
2	Applicants (Reinstatement of Inactive License Fee @ \$50.00)	\$100.00
2	Applicants (Postage @ \$0.42)	\$0.84
2	Applicants (Notary @ \$2.00)	\$4.00
Estimated Annual Cost of Compliance for the Life of the Rule		\$104.84

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY08 actuals.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED AMENDMENT

20 CSR 2150-3.160 Physical Therapist Assistant Late Registration. The board is proposing to amend sections (3), (5), (8), and (9).

PURPOSE: This amendment adds an alternative for an applicant to provide evidence of licensure if a licensing agency refuses or fails to provide verification and further clarifies the late registration requirements.

(3) All licensees must provide, on the application form, a recent *[unmounted]* photograph, in size no larger than three and one-half inches by five inches (3 1/2" × 5").

(5) All applicants for late registration must submit the renewal fee along with the delinquent fee established by the board. *[This fee shall be submitted in the form of a cashier's check or money order drawn on a United States bank made payable to the Missouri Board of Healing Arts.]*

(8) All applicants shall have licensure, registration, or certification verification submitted from every *[state and country]* **jurisdiction** in which *[s/he]* **the applicant** has ever held privileges to practice as a physical therapist or physical therapist assistant. This verification must be submitted directly from the licensing agency and include the type of license, registration, or certification, the issue and expiration date, and information concerning any disciplinary or investigative actions. **If a licensing agency refuses or fails to provide verification, the board may consider other evidence of licensure.**

(9) An applicant for late registration whose license has *[been inactive]* **lapsed** for more than two (2) years who was not actively practicing as a physical therapist assistant in another *[state or country]* **jurisdiction** shall submit upon request any other documentation requested by the board necessary to verify that the licensee is competent to practice and is knowledgeable of current physical therapy techniques, procedures, and treatments, as evidenced by continuing education hours, reexamination, or other applicable documentation accepted and approved by the board.

AUTHORITY: section 334.125, RSMo [Supp. 1997] 2000 and sections 334.650, 334.675, and 334.687, RSMo Supp. 2008. This rule originally filed as 4 CSR 150-3.160. Original rule filed Sept. 4, 1997, effective March 30, 1998. Moved to 20 CSR 2150-3.160, effective Aug. 28, 2006. Amended: Filed March 30, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after

publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RULE

20 CSR 2150-3.163 Physical Therapist Assistant Inactive License

PURPOSE: This rule provides the requirements physical therapist assistants must follow to request inactive status.

(1) Licensees shall make application for an inactive license upon a form prepared by the board.

(2) No application will be considered unless fully and completely made out on the specified form and properly attested.

(3) All applications shall be sent to the Missouri State Board of Registration for the Healing Arts, PO Box 4, Jefferson City, MO 65102.

(4) To be eligible for an inactive license, a licensee must hold a current and active license to practice as a physical therapist assistant in the state of Missouri and shall not be under investigation by the board or involved in pending disciplinary proceedings.

AUTHORITY: section 334.125, RSMo 2000 and sections 334.525 and 334.687, RSMo Supp. 2008. Original rule filed March 30, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately five hundred fourteen dollars and nine cents (\$514.09) for the first year of implementation and four hundred nineteen dollars and seven cents (\$419.07) during the second year of implementation and annually thereafter for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately three dollars and thirty-six cents (\$3.36) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PUBLIC FISCAL NOTE**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2150 - State Board of Registration for the Healing Arts****Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants****Proposed Rule - 20 CSR 2150-3.163 Physical Therapist Assistant Inactive License**

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance	
State Board of Registration for the Healing Arts	Total Cost of Compliance During the First Year of Implementation of the Rule	\$514.09
	Total Cost of Compliance Beginning During the Second Year of Implementation and Annually Thereafter	\$419.07

III. WORKSHEET**First Year of Implementation of the Rule**

The Administrative Coordinator drafts the application for inactive license. The Executive Director will review the application before being sent to print. The Graphic Arts Specialist I prepares the form and submits to the state printshop. These are one time costs to the board.

Personal Service Dollars

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER EVENT	COST PER EVENT	TOTAL COST
Administrative Coordinator	\$37,968	\$56,477.40	\$27.15	\$0.45	1 Hour	\$27.15	\$27.15
Executive Director	\$76,283	\$113,470.96	\$54.55	\$0.91	15 Minutes	\$13.64	\$13.64
Graphic Arts Specialist I	\$25,800	\$38,377.50	\$18.45	\$0.31	30 Minutes	\$9.23	\$9.23

Personal Service - Processing Applications

Expense and Equipment Dollars

Second Year of Implementation of the Rule and Thereafter

The Licensure Technician II receives and sets up applications for review. The Licensure Supervisor reviews the completed applications. The Administrative Coordinator issues licenses. The Office Support Assistant changes the status in the licensing system to inactive status. The board estimates that 8 applicants will apply for an inactive license annually.

Personal Service Dollars

[illegible]

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE FISCAL NOTE

I. RULE NUMBER

**Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2150 - State Board of Registration for the Healing Arts**

Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants

Proposed Rule - 20 CSR 2150-3.163 Physical Therapist Assistant Inactive License

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
8	Applicants for Inactive Licensure (Postage @ \$0.42)	\$3.36
	Estimated Annual Cost of Compliance for the Life of the Rule	\$3.36

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY06-FY08 actuals.
2. No application fees are reported because the board does not charge a fee for inactive licensure.
3. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED RULE

**20 CSR 2150-3.165 Physical Therapist Assistant—Reinstatement
of an Inactive License**

PURPOSE: This rule specifies the requirements physical therapist assistants must follow to request reinstatement of a license that has been inactive.

- (1) All applicants shall make application for reinstatement of an inactive license upon a form prepared by the board.
- (2) No application will be considered unless fully and completely made out on the specified form and properly attested.
- (3) All applications shall be sent to the Missouri State Board of Registration for the Healing Arts, PO Box 4, Jefferson City, MO 65102.
- (4) All applicants for reinstatement of an inactive license must submit a fee as specified in 20 CSR 2150-3.080.
- (5) No application will be processed prior to the submission of the required fee in the appropriate form.
- (6) All applicants must submit an activity statement documenting all employment and professional and nonprofessional activities since the date the license was placed on inactive status.
- (7) All applicants shall have licensure, registration, or certification verification submitted from every jurisdiction in which the applicant has ever held privileges to practice as a physical therapist assistant. This verification must be submitted directly from the licensing agency and include the type of license, registration, or certification, the issue and expiration date, and information concerning any disciplinary or investigative actions.
- (8) An applicant for reinstatement of an inactive license, who has not actively practiced as a physical therapist assistant in another jurisdiction throughout the period their Missouri license was inactive, shall submit upon request any documentation requested by the board necessary to verify that the applicant is competent to practice in Missouri. Such documentation may include sixty (60) hours of continuing education obtained within the four (4) years immediately preceding the issuance of the license and/or one (1) year of supervised practice and/or successful completion of the national licensing examination. Any continuing education obtained pursuant to re-issuance of a license shall be completely separate from continuing education that was previously counted towards mandatory continuing education when the applicant was previously licensed.

AUTHORITY: section 334.125, RSMo 2000 and sections 335.525 and 334.687, RSMo Supp. 2008. Original rule filed March 30, 2009.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately one hundred thirty-nine dollars and seventy-four cents (\$139.74) during the first year of implementation and thirty-two dollars and fifty-eight cents (\$32.58) during the second year of implementation and annually thereafter for the life of the rule. It is anticipated that the costs will recur for the life of the rule,

may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately two thousand four hundred seventy-four dollars and eighty-four cents (\$2,474.84) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2150 - State Board of Registration for the Healing Arts

Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants

Proposed Rule - 20 CSR 2150-3.165 Physical Therapist Assistant - Reinstatement of an Inactive License

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance	
State Board of Registration for the Healing Arts	Total Cost of Compliance During the First Year of Implementation of the Rule	\$139.74
	Total Cost of Compliance Beginning During the Second Year of Implementation and Annually Thereafter	\$32.58

III. WORKSHEET

First Year of Implementation of the Rule

The Administrative Coordinator drafts the application for reinstatement of an inactive license. The Executive Director will review the application before being sent to print. The Graphic Arts Specialist I prepares the form and submits to the state printshop. These are one time costs to the board.

Personal Service Dollars - One Time Costs

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER EVENT	COST PER EVENT	TOTAL COST
Administrative Coordinator	\$37,968	\$56,477.40	\$27.15	\$0.45	1 Hour	\$27.15	\$27.15
Executive Director	\$76,283	\$113,470.96	\$54.55	\$0.91	15 Minutes	\$13.64	\$27.28
Graphic Arts Specialist I	\$25,800	\$38,377.50	\$18.45	\$0.31	30 Minutes	\$9.23	\$9.23

The Licensure Technician II reviews the applications for completion and corresponds with the applicant for any additional information required by the board. The Licensure Supervisor reviews completed applications for approval. The Executive Director approves the applications. The board estimates that 2 applicants will apply for an inactive license annually.

Personal Service Dollars - Processing Applications

[illegible]

The form will be sent with the application packets to the licenses so there would be no additional postage costs. The board estimates that they will have to send an average of 10 letters of correspondence to applicants annually.

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
State Printing (1x Cost)	\$45.00	1	\$45.00
Letterhead	\$0.05	10	\$0.50
Total Expense and Equipment Costs for the First Year of Implementation of the Rule			\$45.50

Second Year of Implementation of the Rule and Thereafter

The Licensure Technician II reviews the applications for completion and corresponds with the applicant for any additional information required by the board. The Licensure Supervisor reviews completed applications for approval. The Executive Director approves the applications. The board estimates that 2 applicants will apply for an inactive license annually.

Personal Service Dollars

[illegible]

The board estimates that they will have to send an average of 10 letters of correspondence to applicants annually.

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
Letterhead	\$0.20	10	\$2.00
Total Expense and Equipment Costs Beginning the 2nd Year of Implementation of the Rule and Annually Thereafter for the Life of the Rule			\$2.00

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2150 - State Board of Registration for the Healing Arts
Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants
Proposed Rule - 20 CSR 2150-3.165 Physical Therapist Assistant - Reinstatement of an Inactive License

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
2	Applicants for Reinstatement of Inactive License (Postage @ \$0.42)	\$0.84
2	Applicants for Reinstatement of Inactive License (Notary @ \$2.00)	\$4.00
2	Applicants for Reinstatement of Inactive License (Fee @ \$50.00)	\$100.00
2	Applicants for Reinstatement of Inactive License (3 Verifications @ \$15.00/per form)	\$90.00
2	Applicants for Reinstatement of Inactive License (60 Continuing Education Hours @ \$19.00/HR)	\$2,280.00
Estimated Biennial Cost of Compliance for the Life of the Rule		\$2,474.84

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY06-FY08 actuals.
2. The board estimates that an average of three verifications will be requested by the applicant. It is anticipated that each verification will cost approximately \$15.00.
3. Travel costs to obtain continuing education credits are not included because online courses are accepted by the board.
4. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED AMENDMENT

20 CSR 2150-3.170 Physical Therapist Assistant Licensure Fees. The board is proposing to add subsection (1)(G), renumber the remaining subsection, and amend section (2).

PURPOSE: This amendment establishes a fee to reinstate a license that has been inactive.

(1) The following fees are established by the State Board of Registration for the Healing Arts:

(G) Reinstatement of an Inactive License Fee	\$50
[(G)](H) Returned Check Fee	\$25

(2) All fees are nonrefundable. All fees must be *[submitted in the form of a cashier's check or money order payable]* drawn on a United States bank made payable to the Missouri Board of Healing Arts.

AUTHORITY: section[s] 334.125, RSMo 2000 and sections 334.655, 334.660, 334.670, and 334.687, RSMo Supp. 2008. This rule originally filed as 4 CSR 150-3.170. Original rule filed Sept. 4, 1997, effective March 30, 1998. Amended: Filed April 14, 2000, effective Oct. 30, 2000. Amended: Filed Sept. 15, 2000, effective March 30, 2001. Amended: Filed June 16, 2003, effective Dec. 30, 2003. Moved to 20 CSR 2150-3.170, effective Aug. 28, 2006. Amended: Filed March 30, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED AMENDMENT

20 CSR 2150-3.180 Physical Therapist Assistant [Registration—Supervision] Biennial Renewal—Retirement, Name and Address Changes. The board is proposing to amend the title of the rule and section (2), add a new section (3), and renumber the remaining sections accordingly.

PURPOSE: Due to the passage of Senate Bill 788, this amendment adds that the applicant shall pass a test administered by the board on the laws and rules related to the practice as a physical therapist assistant in Missouri.

(2) The failure to *[mail]* provide the application *[for]* form or the failure to receive the renewal application form does not relieve any licensee of the duty to renew the license and pay the renewal fee, nor shall it exempt any licensee from the penalties provided in sections 334.650 to 334.685, RSMo, for failure to renew.

(3) Prior to renewal of the license, licensees may be required to take and pass a test administered by the board on the laws and rules related to the practice of physical therapy in Missouri. A minimum score of seventy-five percent (75%) is required to pass the examination.

[(3)](4) Licensees must submit written notification of any address change to the board within fifteen (15) days of such occurrence.

[(4)](5) A licensee whose name has changed since licensure was issued must submit a copy of the legal document verifying the name change to the board within fifteen (15) days of such occurrence.

[(5)](6) Licensees who retire from practice as physical therapist assistants shall file an affidavit, on a form furnished by the board, stating the date of retirement. Licensees shall submit documentation verifying retirement as requested by the board. Licensees who reengage in practice as physical therapist assistants after submitting an affidavit of retirement shall reapply for licensure as required in sections 334.650 and 334.685, RSMo, and pursuant to the provisions of 20 CSR 2150-3.160.

AUTHORITY: section[s] 334.125, RSMo 2000 and sections 334.655, 334.660, 334.675, and 334.687, RSMo Supp. [2007] 2008. This rule originally filed as 4 CSR 150-3.180. Original rule filed Sept. 4, 1997, effective March 30, 1998. Amended: Filed Sept. 10, 1998, effective March 30, 1999. Moved to 20 CSR 2150-3.180, effective Aug. 28, 2006. Amended: Filed Dec. 14, 2007, effective June 30, 2008. Amended: Filed March 30, 2009.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately forty eight thousand seven hundred twelve dollars and sixty one cents (\$48,712.61) during the second year of implementation and biennially thereafter for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will cost private entities approximately seven hundred thirty dollars and thirty-eight cents (\$730.38) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2150 - State Board of Registration for the Healing Arts

Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants

Proposed Amendment - 20 CSR 2150-3.180 Physical Therapist Assistant Biennial Renewal - Retirement, Name and Address Changes

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance	
State Board of Registration for the Healing Arts		
		\$48,712.61
	Total Cost of Compliance Beginning the Second Year of Implementation and Biennially Thereafter	\$48,712.61

III. WORKSHEET

Beginning During Second Year of Implementation and Biennially Thereafter

Personal Service Dollars - Renewal Processing

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER EVENT	COST PER EVENT	TOTAL COST
Office Support Assistant	\$24,168	\$35,949.90	\$17.28	\$0.29	5 Minutes	\$1.44	\$6,609.60
Total							\$6,609.60

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
Postage	\$0.42	4590	\$1,927.80
Renewal Forms - Paper	\$0.05	4590	\$229.50
Total			\$2,157.30

The Licensure Technician II reviews the exams for completion and corresponds with the applicant for any additional information required by the board. The Licensure Supervisor reviews completed exams for approval. The Executive Director approves the exams. The board estimates that 1739 applicants will renew biennially.

Personal Service Dollars - Application Process

Licensure Technician II	\$24,576	\$36,556.80	\$17.58	\$0.29	30 Minutes	\$8.79	\$15,281.80
Licensure Supervisor	\$32,856	\$48,873.30	\$23.50	\$0.39	5 minutes	\$1.96	\$3,405.07
Executive Director	\$76,283	\$113,470.96	\$54.55	\$0.91	5 minutes	\$4.55	\$7,905.69
Total							\$39,811.76

The examination will be sent with the renewal packets to the licensees so there would be no additional postage costs. The board estimates that there will be 1739 renewals sent out biennially. The board estimates that they will have to send an average of 10 letters of correspondence to applicants biennially.

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
State Printing (1x Cost)	\$45.00	1	\$45.00
Paper	\$0.05	1739	\$86.95
Letterhead	\$0.20	10	\$2.00
Total			\$133.95

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. It is anticipated that the total cost will recur biennially for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2150 - State Board of Registration for the Healing Arts

Chapter 3 - Licensing of Physical Therapists and Physical Therapist Assistants

Proposed Amendment - 20 CSR 2150-3.180 Physical Therapist Assistant Biennial

Renewal - Retirement, Name and Address Changes

Prepared November 12, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
1,739	Applicants for Renewal (Postage @ \$0.42)	\$730.38
	Estimated Biennial Cost of Compliance for the Life of the Rule	\$730.38

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures shown above are based on FY08 actuals.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of sections 334.002-334.930, RSMo. Pursuant to sections 334.090, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 334.002-334.930, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002-334.930, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED AMENDMENT

20 CSR 2150-3.201 Continuing Education Requirements. The board is proposing to amend section (6), add a new section (7), and renumber the remaining section accordingly.

PURPOSE: This amendment provides that physical therapist assistants who hold temporary licenses are exempt from obtaining continuing education hours until they complete one (1) year of supervised active practice.

(6) [Temporary licensed physical therapists and physical therapist assistants] **Examination applicants who hold temporary licenses** are exempt from obtaining continuing education hours until such time as the temporary licensee successfully passes the licensing examination and is approved and issued licensure pursuant to the provisions of section 334.530, RSMo, as applicable to physical therapists; or pursuant to the provisions of section 334.655, RSMo, as applicable to physical therapist assistants.

(7) Reinstatement applicants who hold temporary licenses are exempt from obtaining continuing education hours until such time as the temporary licensee successfully completes the one (1) year of supervised active practice.

[(7)](8) Physical therapists and/or physical therapist assistants are exempt from one-half (1/2) of the total continuing education hours (thirty (30) hours required, one-half (1/2) is defined as fifteen (15) hours) for the year in which the licensee graduated from a program of physical therapy and/or physical therapist assistant education (respective of type of degree received and type of licensure requested) as accredited by the commission on accreditation of physical therapy education.

AUTHORITY: sections 334.125[,] and 334.507 [and], RSMo 2000, and sections 334.100, [RSMo Supp. 2007] 334.610, 334.650, and 334.687, RSMo Supp. 2008. This rule originally filed as 4 CSR 150-3.201. Original rule filed May 14, 1999, effective Dec. 30, 1999. Moved to 20 CSR 2150-3.201, effective Aug. 28, 2006. Amended: Filed Dec. 14, 2007, effective June 30, 2008. Amended: Filed March 30, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2200—State Board of Nursing
Chapter 4—General Rules**

PROPOSED AMENDMENT

20 CSR 2200-4.010 Fees. The board is proposing to amend subsections (1)(J) and (1)(N).

PURPOSE: The board is statutorily obligated to enforce and administer the provisions of Chapter 335, RSMo. Pursuant to section 335.036.2., RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 335, RSMo, so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 331.010–331.115, RSMo. Therefore, the board is proposing to increase their application fee for proposals to establish new programs and delete obsolete information.

(1) The following fees are established by the State Board of Nursing:

(J) Biennial Renewal Fee—

- | | |
|--|--------|
| 1. RN—Effective [January 1, 2003 | \$ 80/ |
| [A. Effective] January 1, 2009 | \$ 60 |
| 2. LPN—Effective [January 1, 2003 | \$ 72/ |
| [A. January 1, 2008 to December 31, 2008 | \$ 37/ |
| [B. Effective] January 1, 2009 | \$ 52 |

3. License renewal for a professional nurse shall be biennial; occurring on odd-numbered years and the license shall expire on April 30 of each odd-numbered year. License renewal for a practical nurse shall be biennial; occurring on even-numbered years and the license shall expire on May 31 of each even-numbered year. Renewal shall be for a twenty-four (24)-month period except in instances when renewal for a greater or lesser number of months is caused by acts or policies of the Missouri State Board of Nursing. Renewal applications (see 20 CSR 2200-4.020) shall be mailed every even-numbered year by the Missouri State Board of Nursing to all LPNs currently licensed and every odd-numbered year to all RNs currently licensed;

4. Renewal fees for each biennial renewal period [as outlined in this subparagraph] shall be accepted by the Missouri State Board of Nursing only if accompanied by an appropriately completed renewal application[:].

[A. RNs (odd-numbered years):

(I) Effective January 1, 2003 \$80

B. LPNs (even-numbered years):

(I) Effective January 1, 2003 \$72

(II) January 1, 2008 through

December 31, 2008 \$37

(III) Effective January 1, 2009 \$72/

5. All fees established for licensure or licensure renewal of nurses incorporate an educational surcharge in the amount of one dollar (\$1) per year for practical nurses and five dollars (\$5) per year for professional nurses. These funds are deposited in the professional and practical nursing student loan and nurse repayment fund;

(N) Application Fee for Proposals to Establish

New Programs of Nursing [\$500/\$3,000

AUTHORITY: section 335.036, RSMo Supp. [2007] 2008 and section 335.046, RSMo 2000. This rule originally filed as 4 CSR 200-4.010. Emergency rule filed Aug. 13, 1981, effective Aug. 23, 1981, expired Dec. 11, 1981. Original rule filed Aug. 13, 1981, effective Nov. 12, 1981. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 30, 2009.

PUBLIC COST: This proposed amendment will increase revenue for state agencies or political subdivisions approximately fifteen thousand

dollars (\$15,000) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will cost private entities approximately fifteen thousand dollars (\$15,000) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Lori Scheidt, Executive Director, PO Box 656, Jefferson City, MO 65102, by fax at (573) 751-0075, or via email at nursing@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC FISCAL NOTE**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2200 - State Board of Nursing****Chapter 4 - General Rules****Proposed Amendment - 20 CSR 2200-4.010 Fees****Prepared December 31, 2008 by the Division of Professional Registration****II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Revenue	
State Board of Nursing		\$15,000.00
	Total Annual Increase in Revenue for the Life of the Rule	\$15,000.00

III. WORKSHEET

The board estimates the projections calculated in the Private Fiscal Note will be total increase in revenue for the board.

IV. ASSUMPTION

1. The division is statutorily obligated to enforce and administer the provisions of sections 335.011-324.257, RSMo. Pursuant to Section 335.036, RSMo, the board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2200 - State Board of Nursing

Chapter 4 - General Rules

Proposed Amendment - 20 CSR 2200-4.010 Fees

Prepared December 31, 2008 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
6	New Nursing Programs (Application Fee for Proposals to Establish New Programs of Nursing @ \$2,500 Increase)	\$15,000.00
	Estimated Annual Cost of Compliance for the Life of the Rule	\$15,000.00

III. WORKSHEET

Estimated Initial Program Approval Cost (Est. to the Point of First Full Approval)

Letter of Intent and Proposal Prep:

4 hours of clerical time – Education Section **\$75.00**

Paper & Copying **\$25.00**

8 hours of letter and intent/proposal review -- Education Section/Board Review/Acknowledgement **\$200.00**

Initial Approval Survey

8 hours of initial approval survey time – Education Section **\$200.00**

8 hours of initial approval survey time – Adjunct Surveyor **\$400.00**

8 hours of initial approval report completion – Education Section **\$200.00**

Amenities

Hotel accommodations for two surveyors – Education Section and Adjunct Surveyor **\$200.00**

Mileage/State Car expenses – estimated at the longest distance (300 miles per round trip x 2) **\$165.00**

Meal Estimate for two surveyors **\$100.00**

Education Committee Review (\$6.25/hour per diem x 5 board members) **\$31.25**

Board Member Review (\$6.25/hour per diem x 9 board members) **\$56.25**

Initial to Full Approval Survey

8 hours of initial to full approval survey time – Education Section	\$200.00
8 hours of initial to full approval survey time – Adjunct Surveyor	\$400.00
Hotel accommodations for two surveyors -- Education Section and Adjunct Surveyor	\$200.00
Mileage/State Car expenses – estimated at the longest distance (300 miles per round trip x 2)	\$165.00
Meal Estimate for two surveyors	\$100.00
8 hours of initial to full approval report completion – Education Section	\$200.00
Education Committee Review (\$6.25/hour per diem x 5 board members)	\$31.25
Board Member Review (\$6.25/hour per diem x 9 board members)	\$56.25
Total Estimated Cost	\$3,005.00

IV. ASSUMPTION

1. The number of entities affected is based on 2008 actuals.
2. The new application fee for proposals to establish new programs of nursing is based on actual costs of the board to approve programs. These costs are shown above.
3. The board is statutorily obligated to enforce and administer the provisions of Chapter 335, RSMo. Pursuant to Section 335.036, RSMo, the board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.
4. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2245—Real Estate Appraisers
Chapter 5—Fees**

PROPOSED AMENDMENT

20 CSR 2245-5.020 Application, Certificate and License Fees.
The board is proposing to amend subsections (2)(B) and (2)(L) and add subsection (2)(M).

PURPOSE: The board is statutorily obligated to enforce and administer the provisions of sections 339.500–339.549, RSMo. Pursuant to section 339.513.2., RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 339.500–339.549, RSMo, so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 339.500–339.549, RSMo. Therefore, the commission is proposing to increase the renewal fees and add an inactive renewal fee.

(2) The following fees shall be paid for original issuance and renewal of certificates or licenses:

(B) License/Certification Renewal Fee	\$/1/225
(L) Reinstatement Fee	\$/1/225
(M) Inactive Renewal Fee	\$ 50

AUTHORITY: section 339.509, RSMo 2000 and sections 339.513 and 339.525.5, RSMo Supp. [2007] 2008. This rule originally filed as 4 CSR 245-5.020. Emergency rule filed Dec. 6, 1990, effective Dec. 16, 1990, expired April 14, 1991. Emergency rule filed April 4, 1991, effective April 14, 1991, expired Aug. 11, 1991. Original rule filed Jan. 3, 1991, effective April 29, 1991. For intervening history, please consult the Code of State Regulations. Amended: Filed March 30, 2009.

PUBLIC COST: This proposed amendment will increase revenue for state agencies or political subdivisions approximately one thousand one hundred twenty dollars (\$1,120) annually for the first year of implementation and five hundred sixty-eight thousand three hundred fourteen dollars (\$568,314) biennially beginning the second year of implementation and for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will cost private entities approximately one thousand one hundred twenty dollars (\$1,120) annually for the first year of implementation and five hundred sixty-eight thousand three hundred fourteen dollars (\$568,314) biennially beginning the second year of implementation and for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Real Estate Appraisers Commission, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-526-3489, or via email at reacom@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

PUBLIC FISCAL NOTE**I. RULE NUMBER****Title 20 -Department of Insurance, Financial Institutions, and Professional Registration****Division 2245 - Real Estate Appraisers Commission****Chapter 5 - Fees****Proposed Amendment - 20 CSR 2245-5.020 Application, Certificate and License Fees****Prepared January 5, 2009 by the Division of Professional Registration****II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimate Increase in Revenue	
Real Estate Appraisers Commission	Total Annual Cost of Compliance for the Life of the Rule Beginning in FY09	\$1,120.00
	Total Biennial Cost of Compliance for the Life of the Rule Beginning in FY10	\$568,314.00

III. WORKSHEET

The commission shall set the amount of the fees which sections 339.010 to 339.180 and sections 339.710 to 339.860, RSMo authorize and require by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 339.010 to 339.180 and sections 339.710 to 339.860, RSMo. The board estimates the projections calculated in the Private Entity Fiscal Notes will be total increase of revenue for the board.

IV. ASSUMPTION

1. It is anticipated that the total increase in revenue will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions, and Professional Registration
Division 2245 - Real Estate Appraisers Commission
Chapter 5 - Fees
Proposed Amendment - 20 CSR 2245-5.020 Application, Certificate and License Fees
 Prepared January 5, 2009 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Annual Estimates

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual cost of compliance with the rule by affected entities:
5	Real Estate Appraisers (Reinstatement Fee @ \$224 Increase)	\$1,120.00
Total Annual Cost of Compliance for the Life of the Rule		\$1,120.00

Biennial Estimates

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated biennial cost of compliance with the rule by affected entities:
2,536	Real Estate Appraisers (License/Certification Renewal Fee @ \$224 Increase)	\$568,064.00
5	Real Estate Appraisers (Inactive Renewal @ \$50)	\$250.00
Total Biennial Cost of Compliance for the Life of the Rule		\$568,314.00

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures reported above are based on FY09 projections.
2. It is anticipated that the total cost will recur over the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The commission shall set the amount of the fees which sections 339.010 to 339.180 and sections 339.710 to 339.860, RSMo authorize and require by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 339.010 to 339.180 and sections 339.710 to 339.860,

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2270—Missouri Veterinary Medical Board
Chapter 1—General Rules**

PROPOSED AMENDMENT

20 CSR 2270-1.021 Fees. The board is proposing to amend paragraph (1)(B)3.

PURPOSE: The board is statutorily obligated to enforce and administer the provisions of sections 340.200 to 340.330, RSMo. Pursuant to section 340.210.3(9), RSMo, the board shall establish fees necessary to administer the provisions of sections 340.200 to 340.330, RSMo, so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 340.200 to 340.330, RSMo. Therefore, the board is proposing to increase the Veterinary Technician National Examination fee to be consistent with the American Association of Veterinary State Boards (AAVSB), as they are contracted with the board for services relating to the administration of the examination.

(1) The following fees are established by the Missouri Veterinary Medical Board:

(B) Veterinary Technicians—

1. Registration Fee	\$ 50
2. State Board Examination Fee	\$ 30
3. National Examination Fee	\$(110/200)
4. Reciprocity Fee	\$ 50
5. Grade Transfer Fee	\$ 50
6. Provisional Registration Fee	\$ 50
7. Annual Renewal Fee—	
A. Active	\$ 20
B. Inactive	\$ 10
8. Late Renewal Penalty Fee	\$ 50
9. Name Change Fee	\$ 15
10. Wall Hanging Replacement Fee	\$ 15

AUTHORITY: sections 340.210 and 340.232, RSMo 2000. This rule originally filed as 4 CSR 270-1.021. Original rule filed Nov. 4, 1992, effective July 8, 1993. For intervening history, please consult the Code of State Regulations. Emergency amendment filed March 23, 2009, effective April 2, 2009, expires Jan. 12, 2010. Amended: Filed March 23, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities approximately eleven thousand eight hundred eighty dollars (\$11,880) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Veterinary Medical Board, PO Box 633, Jefferson City, MO 65102, by facsimile at 573-751-0031, or via email at vets@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Private Fiscal Note**I. RULE NUMBER****Title 20 -Department of Insurance, Financial Institutions, and Professional****Division 2270 - Missouri Veterinary Medical Board****Chapter 1 - General Rules****Proposed Emergency Amendment - 20 CSR 2270-1.021 Fees****Prepared March 4, 2009 by the Division of Professional Registration****II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual cost of compliance with the amendment by affected entities:
132	Applicants for Initial Licensure (Veterinary Technician National Examination @ \$90.00 Increase)	\$11,880
	Compliance for the Life of the Rule	\$11,880

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures reported above are based on FY08 actuals.
2. The board anticipates an increase of approximately 50 new applicants this fiscal year for the Veterinary Technician National Examination.
3. This fee passes through from the board to the American Association of Veterinary State Boards (AAVSB). Therefore, no fiscal impact is reported for the board itself.
4. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 5—Wildlife Code: Permits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-5.205 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2095-2096). Those sections with changes are reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received six hundred eighty-one (681) comments in opposition to the proposed amendment.

COMMENT #1: Two hundred seventy-nine (279) comments opposed the hunting and fishing permit exemption for persons born after March 1, 1944.

COMMENT #2: Four hundred three (403) comments opposed the elimination of no-cost landowner permits for lessees who live on at least five (5) continuous acres owned by others.

RESPONSE AND EXPLANATION OF CHANGE: The term "lessee" will not be deleted from the Landowner definition in the Code, and age requirements for receiving no-cost small game and fishing permits will not change.

3 CSR 10-5.205 Permits Required; Exceptions

(1) Any person who chases, pursues, takes, transports, ships, buys, sells, possesses, or uses wildlife in any manner must first obtain the prescribed hunting, fishing, trapping, or other permit, or be exempted under 3 CSR 10-9.110, with the following exceptions:

(A) A resident landowner or lessee, as defined in this Code, may hunt, trap, or fish as prescribed in Chapters 6, 7, and 8 without permit (except landowner deer and turkey hunting permits, Migratory Bird Hunting Permit, Resident Cable Restraint Permit, and Conservation Order Permit as prescribed), but only on land s/he owns or, in the case of the lessee, upon which s/he resides, and may transport and possess wildlife so taken.

(B) Any resident of Missouri sixty-five (65) years of age or older may take fish, live bait, clams, mussels, turtles, and frogs as provided in Chapter 6 without permit (except trout permit or daily tag in areas where prescribed); provided, while fishing, s/he carries a valid Missouri motor vehicle operator's license, notarized affidavit, or similar official document proving his/her eligibility based on residency and age, and shall submit documentation for inspection by any agent of the department on request.

(C) Any resident of Missouri sixty-five (65) years of age or older may take wildlife as provided in Chapter 7 without permit (except all special hunting permits, the Migratory Bird Hunting Permit, and Conservation Order Permit as prescribed); provided, while hunting, s/he carries a valid Missouri motor vehicle operator's license, notarized affidavit, or similar official document proving his/her eligibility based on residency and age, and shall submit documentation for inspection by any agent of the department on request.

Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 5—Wildlife Code: Permits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-5.215 Permits and Privileges: How Obtained; Not Transferable is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2097). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 5—Wildlife Code: Permits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-5.220 Resident and Nonresident Permits is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2097). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received twenty (20) comments in opposition to the proposed amendment.

COMMENT: Twenty (20) comments opposed resident permit privileges for nonresident students living in the state and attending secondary or vocational schools located in Missouri.

RESPONSE: The Conservation Commission reviewed the comments received during the public comment period and reaffirmed its intent to extend resident permit privileges to nonresident students living in the state and attending secondary or vocational schools located in Missouri.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission adopts a rule as follows:

**3 CSR 10-5.222 Youth Pricing: Deer and Turkey Permits
is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2097). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received four (4) comments in opposition to the proposed amendment.

COMMENT: Four (4) comments opposed reduced price deer and turkey permits for youth age fifteen (15) and younger.

RESPONSE: The Conservation Commission reviewed the comments received during the public comment period and reaffirmed its intent to establish reduced price deer and turkey permits for youth age fifteen (15) and younger.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-5.225 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2097-2099). Those sections with changes are reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received five thousand eight hundred forty-five (5,845) comments in opposition to the proposed amendment.

COMMENT: Five thousand eight hundred forty-five (5,845) comments opposed the resident permit price increase.

RESPONSE AND EXPLANATION OF CHANGE: The cost of a replacement permit will remain two dollars (\$2).

3 CSR 10-5.225 Permits: Permit Issuing Agents; Service Fees; Other Provisions

(7) A replacement for a lost, destroyed, or mutilated permit may be issued by any permit issuing agent after verifying original permit through direct access of computer files. For a permit fee of two dollars (\$2), the permit issuing agent shall certify the permit number and type of permit being replaced and issue the replacement permit.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-5.310 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2100). Those sections with changes are reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received two hundred seventy-nine (279) comments in opposition to the proposed amendment.

COMMENT: Two hundred seventy-nine (279) comments opposed the elimination of the hunting and fishing permit exemption for persons born after March 1, 1944.

RESPONSE AND EXPLANATION OF CHANGE: Age qualification in subsection (1)(D) will not change, and subsection (1)(E) will not be removed.

3 CSR 10-5.310 Resident Lifetime Conservation Partner Permit

(1) To chase, pursue, take, possess, and transport fish (including trout), frogs, mussels, clams, turtles, crayfish, live bait, birds (blue, snow, and Ross's geese during the Conservation Order and migratory birds; except wild turkey), and mammals (except deer), and to sell furbearers taken by hunting. Fee:

(D) For persons age forty (40) through fifty-nine (59): six hundred dollars (\$600)

(E) For persons age sixty (60) and older: seventy dollars (\$70)

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-5.320 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2100-2101). Those sections with changes are reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received two hundred seventy-nine (279) comments in opposition to the proposed amendment.

COMMENT: Two hundred seventy-nine (279) comments opposed the elimination of the hunting and fishing permit exemption for persons born after March 1, 1944.

RESPONSE AND EXPLANATION OF CHANGE: Age qualification in subsection (1)(D) will not change, and subsection (1)(E) will not be removed.

3 CSR 10-5.320 Resident Lifetime Small Game Hunting Permit

(1) To chase, pursue, take, possess, and transport birds (blue, snow, and Ross's geese during the Conservation Order and migratory birds; except wild turkey), mammals (except deer), and frogs, and to sell furbearers taken by hunting. Fee:

(D) For persons age forty (40) through fifty-nine (59): Three hundred dollars (\$300)

(E) For persons age sixty (60) and older: Thirty-five dollars (\$35)

Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 5—Wildlife Code: Permits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission rescinds a rule as follows:

3 CSR 10-5.420 Youth Deer and Turkey Hunting Permit is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2122). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 5—Wildlife Code: Permits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-5.430 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2124-2125). Those sections with changes are

reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received five thousand eight hundred forty-five (5,845) comments in opposition to the proposed amendment.

COMMENT: Five thousand eight hundred forty-five (5,845) comments opposed the resident permit price increases.

RESPONSE AND EXPLANATION OF CHANGE: The price for a trout permit in section (1) will not be increased.

3 CSR 10-5.430 Trout Permit

(1) Required in addition to the prescribed fishing permit to possess and transport trout, except in areas where a daily trout fishing tag is required, or as prescribed in 3 CSR 10-6.535(5). Fee: seven dollars (\$7).

Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 5—Wildlife Code: Permits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission adopts a rule as follows:

3 CSR 10-5.436 Resident Conservation Order Permit is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2128-2129). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received three (3) comments in opposition to the proposed amendment.

COMMENT: Three (3) comments opposed establishing a permit for resident participants of the light goose conservation order.

RESPONSE: The Conservation Commission reviewed the comments received during the public comment period and reaffirmed its intent to establish a Conservation Order permit for resident participants of the light goose Conservation Order.

Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 5—Wildlife Code: Permits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-5.540 Nonresident Fishing Permit is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2134-2135). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received one hundred forty-three (143) comments in opposition to the proposed amendment.

COMMENT: One hundred forty-three (143) comments opposed the nonresident permit price increases.

RESPONSE: The Conservation Commission reviewed the comments received during the public comment period and reaffirmed its intent to increase nonresident permit prices and adopt future price increases based on the Consumer Price Index.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.545 Nonresident Small Game Hunting Permit
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2136–2137). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received one hundred forty-three (143) comments in opposition to the proposed amendment.

COMMENT: One hundred forty-three (143) comments opposed the nonresident permit price increases.

RESPONSE: The Conservation Commission reviewed the comments received during the public comment period and reaffirmed its intent to increase nonresident permit prices and adopt future price increases based on the Consumer Price Index.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.551 Nonresident Firearms Any-Deer Hunting Permit
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2138–2139). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received one hundred forty-three (143) comments in opposition to the proposed amendment.

COMMENT: One hundred forty-three (143) comments opposed the nonresident permit price increases.

RESPONSE: The Conservation Commission reviewed the comments received during the public comment period and reaffirmed its intent to increase nonresident permit prices and adopt future price increases based on the Consumer Price Index.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.552 Nonresident Firearms Antlerless Deer Hunting
Permit is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2140–2141). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received one hundred forty-three (143) comments in opposition to the proposed amendment.

COMMENT: One hundred forty-three (143) comments opposed the nonresident permit price increases.

RESPONSE: The Conservation Commission reviewed the comments received during the public comment period and reaffirmed its intent to increase nonresident permit prices and adopt future price increases based on the Consumer Price Index.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.554 Nonresident Archery Antlerless Deer Hunting
Permit is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2142–2143). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received one hundred forty-three (143) comments in opposition to the proposed amendment.

COMMENT: One hundred forty-three (143) comments opposed the nonresident permit price increases.

RESPONSE: The Conservation Commission reviewed the comments received during the public comment period and reaffirmed its intent to increase nonresident permit prices and adopt future price increases based on the Consumer Price Index.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.559 Nonresident Managed Deer Hunting Permit
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2144–2145). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received one hundred forty-three (143) comments in opposition to the proposed amendment.

COMMENT: One hundred forty-three (143) comments opposed the nonresident permit price increases.

RESPONSE: The Conservation Commission reviewed the comments received during the public comment period and reaffirmed its intent to increase nonresident permit prices and adopt future price increases based on the Consumer Price Index.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.560 Nonresident Archer's Hunting Permit
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2146–2147). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received one hundred forty-three (143) comments in opposition to the proposed amendment.

COMMENT: One hundred forty-three (143) comments opposed the nonresident permit price increases.

RESPONSE: The Conservation Commission reviewed the comments received during the public comment period and reaffirmed its intent to increase nonresident permit prices and adopt future price increases based on the Consumer Price Index.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-5.565 Nonresident Turkey Hunting Permits is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2148–2149). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received one hundred forty-three (143) comments in opposition to the proposed amendment.

COMMENT: One hundred forty-three (143) comments opposed the nonresident permit price increases.

RESPONSE: The Conservation Commission reviewed the comments received during the public comment period and reaffirmed its intent to increase nonresident permit prices and adopt future price increases based on the Consumer Price Index.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission adopts a rule as follows:

**3 CSR 10-5.567 Nonresident Conservation Order Permit
is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2150–2151). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.570 Nonresident Furbearer Hunting and Trapping
Permit is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2152–2153). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received one hundred forty-three (143) comments in opposition to the proposed amendment.

COMMENT: One hundred forty-three (143) comments opposed the nonresident permit price increases.

RESPONSE: The Conservation Commission reviewed the comments received during the public comment period and reaffirmed its intent to increase nonresident permit prices and adopt future price increases based on the Consumer Price Index.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission rescinds a rule as follows:

**3 CSR 10-5.576 Nonresident Landowner Firearms Any-Deer
Hunting Permit is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2154–2155). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received sixty-seven (67) comments in opposition to the proposed rescission.

COMMENT: Sixty-seven (67) comments opposed the elimination of nonresident landowner deer and turkey permits.

RESPONSE: The Conservation Commission reviewed the comments received during the public comment period and reaffirmed its intent to eliminate nonresident landowner deer and turkey permits.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission rescinds a rule as follows:

**3 CSR 10-5.579 Nonresident Landowner Firearms Turkey
Hunting Permits is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2156–2157). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received sixty-seven (67) comments in opposition to the proposed rescission.

COMMENT: Sixty-seven (67) comments opposed the elimination of nonresident landowner deer and turkey permits.

RESPONSE: The Conservation Commission reviewed the comments received during the public comment period and reaffirmed its intent to eliminate nonresident landowner deer and turkey permits.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission rescinds a rule as follows:

**3 CSR 10-5.580 Nonresident Landowner Archer's Hunting Permit
is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2158–2159). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received sixty-seven (67) comments in opposition to the proposed rescission.

COMMENT: Sixty-seven (67) comments opposed the elimination of nonresident landowner deer and turkey permits.

RESPONSE: The Conservation Commission reviewed the comments received during the public comment period and reaffirmed its intent to eliminate nonresident landowner deer and turkey permits.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons,
Methods, Limits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-7.455 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2165–2166). Those sections with changes are reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received four hundred three (403) comments regarding this proposed amendment.

COMMENT: Four hundred three (403) comments opposed the elimination of no-cost landowner permits for lessees who live on at least five (5) continuous acres owned by others.

RESPONSE AND EXPLANATION OF CHANGE: The term “lessee” will not be deleted from the Landowner definition in the Code, and age requirements for receiving no-cost small game and fishing permits will not change.

3 CSR 10-7.455 Turkeys: Seasons, Methods, Limits

(5) A resident landowner or lessee as defined in 3 CSR 10-20.805, possessing a landowner turkey hunting permit, may take and possess turkeys in accordance with this rule on his/her land or, in the case of the lessee, on the land on which s/he resides and shall report the turkeys through the Telecheck Harvest Reporting System as required in this rule.

(8) In accordance with section 270.400, RSMo, feral hogs (any hog, including Russian and European wild boar, that is not conspicuously identified by ear tags or other forms of identification and is roaming freely upon public or private lands without the landowner's permission) may be taken in any number during the spring firearms turkey season and youth spring season only by the holder of a valid, unused turkey hunting permit; and only by methods and times prescribed for taking turkeys. During the fall firearms turkey season, feral hogs may be taken only by the holder of a valid, unused turkey hunting permit or a small game hunting permit; and only by methods prescribed in Chapter 7 for taking wildlife, and without the use of bait. Other restrictions may apply on public lands. Resident landowners or lessees as defined in this Code may take feral hogs on their own property at any time, by any method, and without permit.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 10—Wildlife Code: Commercial Permits:
Seasons, Methods, Limits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-10.722 Resident Roe Fish Commercial Harvest Permit
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2173). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 10—Wildlife Code: Commercial Permits:
Seasons, Methods, Limits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-10.724 Nonresident Mississippi River Roe Fish
Commercial Harvest Permit is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2174-2175). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 10—Wildlife Code: Commercial Permits:
Seasons, Methods, Limits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-10.725 Commercial Fishing: Seasons, Methods
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2176). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 10—Wildlife Code: Commercial Permits:
Seasons, Methods, Limits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-10.726 Reciprocal Privileges: Commercial Fishing and
Musseling; Commercial Waters is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2176). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 10—Wildlife Code: Commercial Permits:
Seasons, Methods, Limits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-10.727 Record Keeping and Reporting Required:
Commercial Fishermen and Roe Fish Dealers is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2176-2177). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 10—Wildlife Code: Commercial Permits:
Seasons, Methods, Limits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission adopts a rule as follows:

3 CSR 10-10.728 Roe Fish Dealer Permit is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2177–2178). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 20—Wildlife Code: Definitions**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-20.805 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2191–2192). Those sections with changes are reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: The commission received four hundred three (403) comments regarding this proposed amendment.

COMMENT: Four hundred three (403) comments opposed the elimination of no-cost landowner permits for lessees who live on at least five (5) continuous acres owned by others.

RESPONSE AND EXPLANATION OF CHANGE: The term “lessee” will not be deleted from the Landowner definition in the Code.

3 CSR 10-20.805 Definitions

(33) Lessee: Any Missouri resident who resides on and leases at least five (5) acres of land in one (1) continuous tract owned by others, or any member of the immediate household whose legal residence and domicile is the same as the lessee’s for at least thirty (30) days last past.

(34) Limit: The maximum number or quantity, total length, or both, of any wildlife permitted to be taken or held in possession by any person within a specified period of time according to this Code.

(35) Managed deer hunt: A prescribed deer hunt conducted on a designated area for which harvest methods, harvest quotas, and numbers of participants are determined annually and presented in the deer hunting rules (3 CSR 10-7.431 and 3 CSR 10-7.436).

(36) Mouth of stream or ditch: The point at which a line projected along the shore of a main stream or ditch at the existing water level at time of measurement crosses any incoming stream or ditch.

(37) Mussels: All species of freshwater mussels and clams. Includes all shells and alive or dead animals. Two (2) shell halves (valves) shall be considered one (1) mussel.

(38) Muzzleloading firearm: Any firearm capable of being loaded only from the muzzle.

(39) Night vision equipment: Optical devices (that is, binoculars or scopes) using light amplifying circuits that are electrical or battery powered.

(40) Open season: That time when the pursuing and taking of wildlife is permitted.

(41) Other fish: All species other than those listed as endangered in 3 CSR 10-4.111 or defined in this rule as game fish.

(42) Persons with disabilities: a person who is blind, as defined in section 8.700, RSMo, or a person with medical disabilities which prohibits, limits, or severely impairs one’s ability to ambulate or walk, as determined by a licensed physician as follows: The person cannot ambulate or walk fifty (50) or less feet without stopping to rest due to a severe and disabling arthritic, neurological, orthopedic condition, or other severe and disabling condition; or the person cannot ambulate or walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or the person is restricted by a respiratory or other disease to such an extent that the person’s forced respiratory expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or the arterial oxygen tension is less than sixty (60) mmHg on room air at rest; or the person uses portable oxygen; or the person has a cardiac condition to the extent that the person’s functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association. (A person’s age, in and of itself, shall not be a factor in determining whether such person is physically disabled.)

(43) Poisons, contaminants, pollutants: Any substances that have harmful effect upon wildlife.

(44) Pole and line: Fishing methods using tackle normally held in the hand, such as a cane pole, casting rod, spinning rod, or fly rod, to which not more than three (3) hooks with bait or lures are attached. This fishing method does not include snagging, snaring, grabbing, or trotlines or other tackle normally attached in a fixed position.

(45) Possessed and possession: The actual and constructive possession and control of things referred to in this Code.

(46) Public roadway: The right of way which is either owned in fee or by easement by the state of Missouri or any county or municipal entity, or which is used by the general public for travel and is also regularly maintained by Department of Transportation, federal, county, or municipal funds or labor.

(47) Pursue or pursued: Includes the act of trying to find, to seek, or to diligently search for wildlife for the purpose of taking this wildlife.

(48) Resident landowner: Any Missouri resident who is the owner of at least five (5) acres in one (1) contiguous tract, or any member of the immediate household whose legal residence or domicile is the same as the landowner’s for at least thirty (30) days last past. In the case of corporate ownership, only registered officers of corporations meet this definition.

(49) Sell: To exchange for compensation in any material form, and the term shall include offering for sale.

(50) Snare: A device for the capture of furbearers in a water-set by use of a cable loop. Snares must be constructed of cable that is at least five sixty-fourths inch (5/64") and no greater than one-eighth

inch (1/8") in diameter, and must be equipped with a mechanical lock and anchor swivel.

(51) Speargun: A mechanically powered device that propels a single- or multiple-pronged spear underwater.

(52) Store and storage: Shall also include chilling, freezing, and other processing.

(53) Take or taking: Includes killing, trapping, snaring, netting, or capturing in any manner, any wildlife, and also refers to pursuing, molesting, hunting, wounding; or the placing, setting, or use of any net, trap, device, contrivance, or substance in an attempt to take; and every act of assistance to every other person in taking or attempting to take any wildlife.

(54) Transgenic: Any organism, or progeny thereof, that contains DNA from a species that was not a parent of that organism.

(55) Transport and transportation: All carrying or moving or causing to be carried or moved from one point to another, regardless of distance, vehicle, or manner, and includes offering or receiving for transport or transit.

(56) Underwater spearfishing: The taking of fish by a diver while underwater, with the aid of a manually or mechanically propelled, single- or multiple-pronged spear.

(57) Ungulate: Hoofed animals.

(58) Waters of the state: All rivers, streams, lakes, and other bodies of surface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned or leased by a single person or by two (2) or more persons jointly or as tenants in common or by corporate shareholders, and including waters of the United States lying within the state. Waters of the state will include any waters which have been stocked by the state or which are subject to movement of fishes to and from waters of the state.

(59) Zoo: Any publicly owned facility, park, building, cage, enclosure, or other structure or premises in which live animals are held and exhibited for the primary purpose of public viewing.

**Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 2—Student Financial Assistance Program**

ORDER OR RULEMAKING

By the authority vested in the Commissioner of Higher Education under section 173.250, RSMo Supp. 2008, the commissioner rescinds a rule as follows:

**6 CSR 10-2.010 Institutional Eligibility for Student Participation
is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2009 (34 MoReg 115). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 2—Student Financial Assistance Program**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Higher Education under section 173.250, RSMo Supp. 2008, the commissioner rescinds a rule as follows:

**6 CSR 10-2.020 Student Eligibility and Application Procedures
is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2009 (34 MoReg 115). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 2—Student Financial Assistance Program**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Higher Education under section 173.250, RSMo Supp. 2008, the commissioner amends a rule as follows:

**6 CSR 10-2.080 Higher Education Academic Scholarship
Program is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2009 (34 MoReg 115–119). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 2—Student Financial Assistance Program**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Higher Education under section 173.250, RSMo Supp. 2008, the commissioner amends a rule as follows:

**6 CSR 10-2.140 Institutional Eligibility for Student Participation
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2009 (34 MoReg 119–121). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 2—Student Financial Assistance Program**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Higher Education under section 173.250, RSMo Supp. 2008, the commissioner amends a rule as follows:

6 CSR 10-2.150 Access Missouri Financial Assistance Program is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2009 (34 MoReg 121–122). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 2—Student Financial Assistance Program**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Higher Education under section 173.250, RSMo Supp. 2008, the commissioner adopts a rule as follows:

6 CSR 10-2.160 War Veteran's Survivors Grant Program is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2009 (34 MoReg 122–124). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 2—Student Financial Assistance Program**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Higher Education under section 173.250, RSMo Supp. 2008, the commissioner adopts a rule as follows:

6 CSR 10-2.170 Kids' Chance Scholarship Program is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2009 (34 MoReg 124–126). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 3—Hazardous Waste Management System:
General**

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under section 260.370, RSMo Supp. 2008, the commission amends a rule as follows:

10 CSR 25-3.260 Definitions, Modifications to Incorporations and Confidential Business Information is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2207–2209). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held December 18, 2008, and the public comment period ended December 26, 2008. No comments were received, and no changes were made to the proposed amendment of 10 CSR 25-3.260.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 4—Methods for Identifying Hazardous Waste**

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under section 260.370, RSMo Supp. 2008, the commission amends a rule as follows:

10 CSR 25-4.261 Methods for Identifying Hazardous Waste is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2209–2210). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held December 18, 2008, and the public comment period ended December 26, 2008. No comments were received, and no changes were made to the proposed amendment of 10 CSR 25-4.261.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 5—Rules Applicable to Generators of Hazardous Waste**

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under section 260.370, RSMo Supp. 2008, the commission amends a rule as follows:

10 CSR 25-5.262 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17,

2008 (33 MoReg 2210-2214). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held December 18, 2008, and the public comment period ended December 26, 2008.

COMMENT: At the public hearing, a staff member from the Department of Natural Resources Hazardous Waste Program testified that the proposed amendment of 10 CSR 25-5.262 failed to include language in subparagraph 10 CSR 25-5.262 (2)(A)4.F. that is directly related to a statutory change regarding generator registration. Identical language was added to the preceding subparagraph, 10 CSR 25-5.262(2)(A)4.E., but, due to an oversight by staff when drafting the text of the proposed amendment, the same language was not proposed for addition to subparagraph (2)(A)4.F. as it should have been. **RESPONSE AND EXPLANATION OF CHANGE:** This language is included in this order of rulemaking and subparagraph 10 CSR 25-5.262(2)(A)4.F. is printed below as the revised rule will be published in the *Code of State Regulations*.

10 CSR 25-5.262 Standards Applicable to Generators of Hazardous Waste

(2) A generator located in Missouri, except as conditionally exempted in accordance with 10 CSR 25-4.261, shall comply with the requirements of this section in addition to the requirements incorporated in section (1). Where contradictory or conflicting requirements exist in 10 CSR 25, the more stringent shall control. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the additional storage standards which are added to 40 CFR part 262 subpart C are found in subsection (2)(C) of this rule.)

(A) General. The following registration requirements are additional requirements to, or modifications of, the requirements specified in 40 CFR part 262 subpart A:

1. In lieu of 40 CFR 262.12(a) and (c), a generator located in Missouri shall comply with the following requirements:

A. A person generating in one (1) month or accumulating at any one (1) time the quantities of hazardous waste specified in 10 CSR 25-4.261 and a transporter who is required to register as a generator under 10 CSR 25-6.263 shall register and is subject to applicable rules under 10 CSR 25-3.260-10 CSR 25-9.020 and 10 CSR 25-12.010;

B. A person generating hazardous waste on a "one (1)-time" basis may apply for a temporary registration. A temporary registration shall be valid for one (1) initial thirty (30)-day period with the possibility of an extension of one (1) additional thirty (30)-day period. Should a temporary registration exceed the total sixty (60)-day period outlined here, the department shall consider the registration to be permanent rather than temporary. All reporting requirements and registration fees outlined in this chapter shall apply to temporary registrations; and

C. Conditionally exempt generators may choose to register and obtain Environmental Protection Agency (EPA) and Missouri identification numbers, but in doing so will be subject to any initial registration fee and annual renewal fee outlined in this chapter;

2. An owner/operator of a treatment, storage, disposal, or resource recovery facility who ships hazardous waste from the facility shall comply with this rule;

3. The following constitutes the procedure for registering:

A. A person who is required to register shall file a completed registration form furnished by the department. The department shall require an original ink signature on all registration forms before processing. In the event the department develops the ability to accept

electronic submission of the registration form, the signature requirement will be consistent with the legally-accepted standards in Missouri for an electronic signature on documents. All generators located in Missouri shall use only the Missouri version of the registration form;

B. A person required to register shall also complete and file an updated generator registration form if the information filed with the department changes;

C. The department may request additional information, including information concerning the nature and hazards associated with a particular waste or any information or reports concerning the quantities and disposition of any hazardous wastes as necessary to authorize storage, treatment, or disposal and to ensure proper hazardous waste management;

D. A person who is required to register, and those conditionally-exempt generators who choose to register, shall pay a one hundred-dollar (\$100) initial or reactivation registration fee at the time their registration form is filed with the department. If a generator site has an inactive registration, and a generator required to register reactivates that registration, the generator shall file a registration form and pay the one hundred-dollar (\$100) registration reactivation fee. The department shall not process any form for an initial registration or reactivation of a registration if the one hundred-dollar (\$100) fee is not included. Generators required to register shall thereafter pay an annual renewal fee of one hundred dollars (\$100) in order to maintain their registration in good standing; and

E. Any person who pays the registration fee with what is found to be an insufficient check shall have their registration immediately revoked;

4. The following constitutes the procedure for registration renewal:

A. The calendar year shall constitute the annual registration period;

B. Annual registration renewal billings will be sent by December 1 of each year to all generators holding an active registration;

C. Any generator initially registering between October 1 and December 31 of any given year shall pay the initial registration fee, but shall not pay the annual renewal fee for the calendar year immediately following their initial registration. From that year forward, they shall pay the annual renewal fee;

D. Any generator required to register who fails to pay the annual renewal fee by the due date specified on the billing shall be administratively inactivated and subject to enforcement action for failure to properly maintain their registration;

E. Generators administratively inactivated for failure to pay the renewal fee in a timely manner, who later in the same registration year pay the annual renewal fee, shall pay the fifteen percent (15%) late fee required by section 260.380.4, RSMo, in addition to the one hundred-dollar (\$100) annual renewal fee for each applicable registration year and shall file an updated generator registration form with the department before their registration is reactivated by the department;

F. Generators who request that their registration be made inactive rather than pay the renewal fee, who later in that same renewal year pay the annual renewal fee to reactivate their registration, shall pay the fifteen percent (15%) late fee required by 260.380.4, RSMo, in addition to the one hundred-dollar (\$100) annual renewal fee and file an updated generator registration form with the department before their registration is reactivated by the department; and

G. Any person who pays the annual renewal fee with what is found to be an insufficient check shall have their registration immediately revoked;

5. The department may administratively inactivate the registration of generators that fail to pay any applicable hazardous waste fees and taxes in a timely manner after appropriate notice to do so.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 6—Rules Applicable to Transporters of
Hazardous Waste**

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under section 260.370, RSMo Supp. 2008, the commission amends a rule as follows:

10 CSR 25-6.263 Standards for Transporters of Hazardous Waste is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2214–2215). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held December 18, 2008, and the public comment period ended December 26, 2008. No comments were received, and no changes were made to the proposed amendment of 10 CSR 25-6.263.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 7—Rules Applicable to Owners/Operators of
Hazardous Waste Facilities**

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under section 260.370, RSMo Supp. 2008, the commission amends a rule as follows:

**10 CSR 25-7.264 Standards for Owners and Operators of
Hazardous Waste Treatment, Storage and Disposal Facilities
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2215–2219). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held December 18, 2008, and the public comment period ended December 26, 2008. No comments were received, and no changes were made to the proposed amendment of 10 CSR 25-7.264.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 7—Rules Applicable to Owners/Operators of
Hazardous Waste Facilities**

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under section 260.370, RSMo Supp. 2008, the commission amends a rule as follows:

**10 CSR 25-7.265 Interim Status Standards for Owners and
Operators of Hazardous Waste Treatment, Storage and
Disposal Facilities is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2219–2222). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held December 18, 2008, and the public comment period ended December 26, 2008. No comments were received, and no changes were made to the proposed amendment of 10 CSR 25-7.265.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 7—Rules Applicable to Owners/Operators of
Hazardous Waste Facilities**

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under section 260.370, RSMo Supp. 2008, the commission amends a rule as follows:

**10 CSR 25-7.266 Standards for the Management of Specific
Hazardous Wastes and Specific Types of Hazardous Waste
Management Facilities is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2222). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held December 18, 2008, and the public comment period ended December 26, 2008. No comments were received, and no changes were made to the proposed amendment of 10 CSR 25-7.266.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 7—Rules Applicable to Owners/Operators of
Hazardous Waste Facilities**

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under section 260.370, RSMo Supp. 2008, the commission amends a rule as follows:

10 CSR 25-7.268 Land Disposal Restrictions is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2223). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held December 18, 2008, and the public comment period ended December 26, 2008. No comments were received, and no changes were made to the proposed amendment of 10 CSR 25-7.268.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 7—Rules Applicable to Owners/Operators of
Hazardous Waste Facilities**

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under section 260.370, RSMo Supp. 2008, the commission amends a rule as follows:

10 CSR 25-7.270 Missouri Administered Permit Programs: The Hazardous Waste Permit Program is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2223–2225). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held December 18, 2008, and the public comment period ended December 26, 2008. No comments were received, and no changes were made to the proposed amendment of 10 CSR 25-7.270.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 11—Used Oil**

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under section 260.370, RSMo Supp. 2008, the commission amends a rule as follows:

10 CSR 25-11.279 Recycled Used Oil Management Standards is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2225–2226). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held December 18, 2008, and the public comment period ended December 26, 2008. No comments were received, and no changes were made to the proposed amendment of 10 CSR 25-11.279.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 12—Hazardous Waste Fees and Taxes**

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under section 260.370, RSMo Supp. 2008, the commission amends a rule as follows:

10 CSR 25-12.010 Fees and Taxes is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2226–2228). No changes have been made in the text

of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held December 18, 2008, and the public comment period ended December 26, 2008. No comments were received, and no changes were made to the proposed amendment of 10 CSR 25-12.010.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 13—Polychlorinated Biphenyls**

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under section 260.370, RSMo Supp. 2008, the commission amends a rule as follows:

10 CSR 25-13.010 Polychlorinated Biphenyls is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2228–2230). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held December 18, 2008, and the public comment period ended December 26, 2008. No comments were received, and no changes were made to the proposed amendment of 10 CSR 25-13.010.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 16—Universal Waste**

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under section 260.370, RSMo Supp. 2008, the commission amends a rule as follows:

10 CSR 25-16.273 Standards for Universal Waste Management is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2230–2232). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held December 18, 2008, and the public comment period ended December 26, 2008. No comments were received, and no changes were made to the proposed amendment of 10 CSR 25-16.273.

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals**

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000, and section 197.154, RSMo Supp. 2008, the department amends a rule as follows:

19 CSR 30-20.096 Nursing Services in Hospitals is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2008 (33 MoReg 2343-2347). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received one (1) letter with seven (7) comments.

COMMENT #1: Mary Nash with Nurses United, Local 5126 commented that hospitals include directors, managers, and unit secretaries in their staffing plans and, therefore, are not indicative of direct patient care givers.

RESPONSE: The hospital-wide staffing plan for nursing services should not include unit secretaries. The plan should include only direct care nursing staff spending a minimum of seventy-five percent (75%) of their time providing direct patient care. Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

COMMENT #2: Mary Nash with Nurses United, Local 5126 commented that there is no tool provided for determining "individual nursing care."

RESPONSE: The hospital-wide staffing plan for nursing services will address this concern. The number and skill mix of direct care nursing staff will be determined by the needs of the patient population. The number and skill mix of direct care nursing staff may change based on the needs of the patients occupying the unit. Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

COMMENT #3: Mary Nash with Nurses United, Local 5126 commented that the intensity of care required should be determined on each unit, each shift by nurses present.

RESPONSE: The hospital-wide staffing plan for nursing services submitted by each hospital will address this concern. The plan will allow for each hospital to monitor in a manner appropriate to the facilities staffing plan. The actual staffing and patient census for each unit will be documented as required by section (27). Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

COMMENT #4: Mary Nash with Nurses United, Local 5126 expressed concerns about who will provide documentation on the "staffing plan" as nurses have far too much documentation now.

RESPONSE: This concern can also be addressed in the hospital-wide staffing plan. The responsibility for documentation may or may not be an assignment performed by direct care nursing staff. Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

COMMENT #5: Mary Nash with Nurses United, Local 5126 commented that nursing sensitive indicators as in falls, drug events, injuries to patients, skin breakdown, infection rates, length of stay, or patient readmissions are now documented. The rule is just a matter of records which does nothing to improve staffing.

RESPONSE: The Department of Health and Senior Services believes these indicators do provide an indication of the adequacy of the staffing plan. The validity of this belief is also shared by the Joint Commission and the National Database of Nursing Quality Indicators. Therefore, after careful consideration, no changes have

been made to the rule as a result of this comment.

COMMENT #6: Mary Nash with Nurses United, Local 5126 commented that nursing care hours per patient day has a lot of factors involved that are not mentioned. For example, who is included in calculation (not universal), how is the measurement done, and how is this done for an emergency and operating room.

RESPONSE: Nursing care hours per patient day is but one (1) choice of operational outcomes hospitals may utilize when establishing nursing sensitive indicators. This can be calculated by taking the total worked hours and dividing it by the total volume. For calculations in the emergency room, the denominator would be emergency room visits. For calculations in the operating room, the denominator would be the number of surgeries. Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

COMMENT #7: Mary Nash with Nurses United, Local 5126 commented that, additionally, there is nothing in these rules that mandate hospitals to comply with this staffing plan.

RESPONSE: As with all regulations in this section, oversight rests with the Division of Regulation and Licensure. If deficiencies are cited, an opportunity for correction will be given to the hospital. If the deficiencies are not corrected, licensure actions will be taken. These licensure actions may include immediate suspension or revocation of the hospital license or the cessation of use of any portion of the noncompliant service. Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 26—Home Health Agencies**

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Health and Senior Services under section 197.445, RSMo 2000 and section 660.050, RSMo Supp. 2008, the department amends a rule as follows:

19 CSR 30-26.010 Home Health Licensure Rule is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2008 (33 MoReg 2348-2355). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 200—Insurance Solvency and Company
Regulation
Chapter 12—Missouri and Extended Missouri Mutual
Companies**

ORDER OF RULEMAKING

By the authority vested in the Department of Insurance, Financial Institutions and Professional Registration under section 374.045, RSMo Supp. 2008 and sections 380.471 and 380.561, RSMo 2000, the director amends a rule as follows:

20 CSR 200-12.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 17, 2008 (33 MoReg 2237-2238). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held January 22, 2009, and the public comment period ended January 29, 2009. At the public hearing, department staff explained the amendment, and the director received comments from Hunter Leathers and Thomas Shaw, on behalf of Barton Mutual Group.

COMMENT #1: Thomas Shaw, on behalf of Barton Mutual Group, commented that investment risk should be limited as a function of surplus rather than of assets.

RESPONSE AND EXPLANATION OF CHANGE: The director agrees with this comment and has changed the amendment accordingly.

COMMENT #2: Persons representing extended Missouri mutual companies commented that the rule should separately discuss and describe money market mutual funds and other mutual funds and that money market mutual funds should not be limited.

RESPONSE AND EXPLANATION OF CHANGE: The director agrees to separately discuss and describe money market mutual funds and has changed the amendment accordingly. The director also agrees that money market funds need not be limited to the extent they are insured as to principal and accrued interest either by the Federal Deposit Insurance Corporation (FDIC) or an admitted financial guarantee insurer. However, the director disagrees with the suggestion that other, non-insured, money market funds not be limited. Although non-insured money market mutual funds carry a lesser degree of investment risk and are more liquid than other mutual funds—thereby justifying limits higher than those that apply to other mutual funds—non-insured money market funds still involve some element of investment risk not present with FDIC-insured accounts and, accordingly, should not be considered as cash or cash equivalent.

COMMENT #3: Thomas Shaw, on behalf of Barton Mutual Group, commented that section (3) would be clearer if it allowed a company to petition the director to allow the company to keep the investment and allow the director an amount of time to approve or disapprove the investment.

RESPONSE AND EXPLANATION OF CHANGE: The director agrees with this comment and has changed the amendment accordingly.

COMMENT #4: Persons representing extended Missouri mutual companies commented that the department should replace the reference to third party ratings for mutual funds with the department's own specific investment guidelines for such funds.

RESPONSE AND EXPLANATION OF CHANGE: The director agrees in part and disagrees in part with this comment. The director agrees with this comment to the extent it relates to mutual funds other than money market funds, and the rule has been changed to accommodate investment guidelines by prospectus. Money market mutual funds, however, are not as easily susceptible to review by prospectus, so such funds should either bear an investment grade rating by a nationally recognized independent rating agency or be insured as to loss of principal and accrued interest by FDIC or equivalent private insurance.

20 CSR 200-12.020 Extended Missouri Mutual Companies' Approved Investments

(1) Approved Investments. In addition to the investments expressly permitted under section 380.471, RSMo, the following described

investments shall be deemed "approved by the director" under the provisions of section 380.471, RSMo:

(D) Shares of mutual funds, if and to the extent that:

1. With respect to mutual funds other than money market mutual funds, such mutual fund:

A. Is open-ended; and

B. Invests by prospectus at least eighty percent (80%) of its funds in bonds described in section 380.471, RSMo, or in bonds described in subsection (1)(A) of this rule and paragraphs 1., 2., or 3., thereunder.

2. With respect to money market mutual funds, including money market deposit accounts of financial institutions:

A. The shares of such money market mutual fund are insured as to principal and accrued interest by the Federal Deposit Insurance Corporation (FDIC) or an insurance company which is providing coverage for such fund that is substantially the same (other than as to dollar amount) as that provided by the FDIC and is authorized to underwrite financial guarantee insurance in this state; or

B. Such money market mutual fund is rated as provided in paragraph 1., 2., or 3. of subsection (1)(A) of this rule;

(E) Certificates of deposit and other deposit accounts, if and to the extent that such certificate or deposit account is:

1. Insured as to principal and accrued interest by the FDIC; or

2. Not insured by the FDIC, but only to the extent that the principal and accrued interest of such certificates are insured by an insurance company which is providing coverage for such certificates that is substantially the same (other than as to dollar amount) as that provided by the FDIC and is authorized to underwrite financial guarantee insurance in this state; and

(2) Limitations. The approved investments described in section (1) of this rule shall be subject to the following limitations:

(C) No more than five percent (5%) of an extended Missouri mutual's total surplus may be invested in any one (1) mutual fund described in paragraph (1)(D)1. of this rule;

(D) No more than ten percent (10%) of an extended Missouri mutual's total surplus may be invested in the aggregate in all mutual funds described in paragraph (1)(D)1. of this rule;

(E) No more than twenty-five percent (25%) of an extended Missouri mutual's assets may be invested in the aggregate in all money market mutual funds described in paragraph (1)(D)2. of this rule, except that in computing such aggregate amount an extended Missouri mutual may exclude amounts it has invested in any money market mutual fund described in subparagraph (1)(D)2.A.

(3) If an extended Missouri mutual makes an investment which was deemed approved under section (1) of this rule when made but such investment subsequently no longer qualifies as an approved investment under section (1) of this rule, the extended Missouri mutual shall either consider such investment as disapproved or make a request in writing to the director for approval within thirty (30) days after the end of the month in which such investment first no longer qualifies as an approved investment. The director shall approve or disapprove in writing, with or without conditions, such request within thirty (30) days of receipt. If the extended Missouri mutual makes a request for approval, such investment shall be considered an approved investment pending the director's written approval or disapproval.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects Chapter 5—Examinations

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under sections 327.141 and 327.221, RSMo 2000 and sections 327.041 and 327.131, RSMo Supp. 2008, the board amends a rule as follows:

20 CSR 2030-5.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2009 (34 MoReg 45). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received four (4) comments on the proposed amendment.

COMMENT #1: A comment was received, via email, from Bruce Lindsey, Dean & E. Desmond Lee Professor of Community Collaboration, College of Architecture & Graduate School of Architecture & Urban Design, Washington University @ St. Louis. Mr. Lindsey strongly supports the amendment to change the designation of architecture graduates to Architectural Intern.

RESPONSE: The board reviewed this comment and appreciates Mr. Lindsey's support. No changes were made as a result of this comment.

COMMENT #2: An email was received from Mr. Brad Feeler advising that as the law is currently written, and as he understands it, use of the word "architect" in any way (e.g., architectural) or in combination with any other words (e.g., architectural designer, architectural technician, staff architect) is forbidden if you are not a licensed architect. Mr. Feeler questions if this is too strict of an approach for one who is unlicensed in applying a title to themselves or for companies granting titles for unlicensed architects that they employ. Mr. Feeler commented that as long as he has been practicing architecture, Architectural Intern has always been an acceptable term in the industry and is clearly known as an unlicensed professional (and likely one that is seeking licensure). Mr. Feeler believes that the state of Missouri is safeguarding the use of the title or term Architect for those only with licenses, and he can understand and appreciate this. However, he does not see anything wrong with using titles such as Architectural Designer, Architectural Technician, or any other such titles that imply duties they perform, without using the term "Architect" in the title.

RESPONSE: The board reviewed this comment and appreciates Mr. Feeler's support of the use of the term "Architectural Intern." No changes were made as a result of this comment.

COMMENT #3: An inquiry was received from Mr. Kurt Thompson, AIA, via email, asking if the title "Architectural Intern" has an "expiration date" or sunset period for those who have been out of school for, say, ten (10) years or more, or would this title apply "forever" until licensure is achieved?

RESPONSE: The board reviewed this comment and decided that the term "Architectural Intern" would be treated the same as "Engineer Intern" in that there is no expiration date. The title could be used indefinitely by those qualified to use it. Since Mr. Thompson was only seeking clarification, the board decided it was not necessary to amend the rule. Therefore, no changes were made as a result of this comment.

COMMENT #4: A comment was received, via email, from Mr. Mark Tinsley, Associate Architect, stating that he does not necessarily disagree with the title Architectural Intern; however, he feels it is incredibly difficult to name people's roles these days without using the term "architect" or "architectural." He inquired if there should be a rule written to define acceptable language for how to name other

roles in architectural offices, so there would be standardization. Mr. Tinsley's main concern is about the specific language associated with this change. Since this amendment allows a person participating in the Intern Development Program (IDP) through the National Council of Architectural Registration Boards who has graduated with a National Architectural Accreditation Board accredited degree or equivalent degree from Canada to use the title of "Architectural Intern," he wonders about the others who have attended non-accredited programs and are enrolled in the IDP pursuing registration or those who have accumulated enough experience to pursue registration (at least until 2012, when these will be excluded from applying for registration)? Should they also be allowed to use the term Architectural Intern while they are actively in pursuit? Mr. Tinsley feels if one (1) is allowed, then all should be allowed. He states that in both cases there could be abuse since a person could drag it out and use the term indefinitely if they do not eventually take the exam and pass or fulfill the IDP requirements. He said the rule is intended to keep people from representing themselves to the public as architects or architectural—without proper credentials and this change would elevate a few, but not all, interns and give them a more respected title and represent them to the public as more than a technical support person. He thinks the board should be fair and evenhanded and allow all IDP participants in pursuit of licensing in Missouri to use the term "Architectural Intern" while in process regardless of education, or let no one use the term until they are registered.

RESPONSE AND EXPLANATION OF CHANGE: The board reviewed this comment and agreed that clarification was necessary. Therefore the board decided to amend the rule to include further clarification of who may use the term "Architectural Intern."

20 CSR 2030-5.030 Standards for Admission to Examination—Architects

(1) Every graduate from a curriculum fully accredited by the National Architectural Accreditation Board (NAAB), or other designated agencies as recognized by the National Council of Architectural Registration Boards (NCARB), who shall apply for architectural licensure shall submit with and as a part of the application documents as required in section 327.131, RSMo, a fully certified and completed Intern Development Program (IDP) record. A person participating in IDP through NCARB who has graduated with an NAAB accredited degree or equivalent degree from Canada or who has acquired a combined total of twelve (12) years of education, above the high school level pursuant to section 327.131, RSMo, may use the term "Architectural Intern."

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Division 2110—Missouri Dental Board Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the Missouri Dental Board under sections 332.031, 332.141, and 332.151, RSMo 2000 and section 332.181, RSMo Supp. 2008, the board amends a rule as follows:

20 CSR 2110-2.010 Licensure by Examination—Dentists is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2009 (34 MoReg 126). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed

amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2110—Missouri Dental Board
Chapter 2—General Rules
ORDER OF RULEMAKING**

By the authority vested in the Missouri Dental Board under sections 332.031 and 332.211, RSMo 2000, the board amends a rule as follows:

20 CSR 2110-2.030 Licensure by Credentials—Dentists
is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2009 (34 MoReg 126). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2110—Missouri Dental Board
Chapter 2—General Rules
ORDER OF RULEMAKING**

By the authority vested in the Missouri Dental Board under sections 332.031, 332.231, 332.241, and 332.251, RSMo 2000 and section 332.261, RSMo Supp. 2008, the board amends a rule as follows:

20 CSR 2110-2.050 Licensure by Examination—Dental Hygienists
is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2009 (34 MoReg 126–127). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2110—Missouri Dental Board
Chapter 2—General Rules
ORDER OF RULEMAKING**

By the authority vested in the Missouri Dental Board under section 332.031, RSMo 2000 and section 332.171.2, RSMo Supp. 2008, the board amends a rule as follows:

20 CSR 2110-2.090 Certification of Dental Specialists
is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2009 (34 MoReg 127). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2110—Missouri Dental Board
Chapter 2—General Rules
ORDER OF RULEMAKING**

By the authority vested in the Missouri Dental Board under sections 332.031 and 332.091, RSMo 2000 and sections 332.071 and 332.311, RSMo Supp. 2008, the board amends a rule as follows:

20 CSR 2110-2.130 Dental Hygienists **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2009 (34 MoReg 127). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2110—Missouri Dental Board
Chapter 2—General Rules
ORDER OF RULEMAKING**

By the authority vested in the Missouri Dental Board under section 332.311.2, RSMo Supp. 2008, the board amends a rule as follows:

20 CSR 2110-2.132 Dental Hygienists—Equipment Requirements
for Public Health Settings **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2009 (34 MoReg 128). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2110—Missouri Dental Board
Chapter 2—General Rules
ORDER OF RULEMAKING**

By the authority vested in the Missouri Dental Board under section 332.031, RSMo 2000 and sections 332.181 and 332.261, RSMo Supp. 2008, the board amends a rule as follows:

20 CSR 2110-2.240 Continuing Dental Education is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2009 (34 MoReg 128). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

The Secretary of State is required by sections 347.141 and 359.481, RSMo 2000, to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript by email to dissolutions@sos.mo.gov.

Notice of Dissolution
To All Creditors of and
Claimants Against
Biomedical Professionals, LLC

On January 16, 2009, Biomedical Professionals, LLC, a Missouri limited liability company, filed its Notice of Winding Up for a Limited Liability Company with the Missouri Secretary of State.

The company requests that all persons and organizations who have claims against it present them immediately by letter to the company at:

Biomedical Professionals, LLC
c/o Larry Askew II
1600 Genessee, Suite 950
Kansas City, MO 64102

All claims must include the name and address and telephone number of claimant, amount claimed, basis for the claim, the date on which the claim arose, and any documentation related to the claim.

All claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication of this notice.

**NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY TO ALL
CREDITORS OF AND CLAIMANTS AGAINST HOMECRAFT, LLC**

On February 11, 2009, Homecraft, LLC, a Missouri limited liability company (the "Company"), filed its Notice of Winding Up with the Missouri Secretary of State. All persons and organizations with claims against the Company must submit to Homecraft, LLC, 8003 South Barry Road, Columbia, MO 65203, a written summary of any claims against the Company which shall include the name, address, and telephone numbers of the claimant, the amount of the claim, date(s) the claim accrued, a brief description of the nature/basis for the claim, and any documentation of the claim. Claims against the Company will be barred unless a proceeding to enforce the claim is commenced within 3 years after the publication of this notice.

**NOTICE OF CORPORATE DISSOLUTION TO ALL CREDITORS OF AND
CLAIMANTS AGAINST IMAGE DEVELOPMENT PROFESSIONALS GROUP,
INC.**

On November 3, 2008, Image Development Professionals Group, Inc., a Missouri corporation (the "Corporation"), filed its Articles of Dissolution with the Missouri Secretary of State. All persons and organizations with claims against the Corporation must submit to IDP Group Claims Administrator, 1800 Caledon Court, Ste. 1, Columbia, MO 65203, a written summary of any claims against the Corporation which shall include the name, address, and telephone numbers of the claimant, the amount of the claim, date(s) the claim accrued, a brief description of the nature/basis for the claim, and any documentation of the claim. Claims against the Corporation will be barred unless a proceeding to enforce the claim is commenced within 2 years after the publication of this notice.

NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY

To: All creditors of and claimants against the Missouri Investment Group, L.L.C., a Missouri Limited Liability Company.

On February 20, 2009, the Missouri Investment Group, L.L.C., a Missouri Limited Liability Company, Charter Number LC0695632, filed its notice of winding up with the Missouri Secretary of State.

Said limited liability company requests that all persons and organizations who have claims against it present them immediately by letter to the company at 245 S. Wildwood Drive, Branson, MO 65616.

All claims must include the following information:

1. Name and address of the claimant.
2. The amount claimed.
3. The clear and concise statement of the facts supporting the claim.
4. The date the claim was incurred.

NOTICE: Because of the winding up of the Missouri Investment Group, L.L.C., any claims against it will be barred unless a proceeding to enforce the claim is commenced within three years after the publication of the three notices authorized by statute, whichever is published last.

**NOTICE OF CORPORATE DISSOLUTION
TO ALL CREDITORS OF AND CLAIMANTS AGAINST
INTERLOCHEN CORPORATION**

On March 27, 2009, Interlochen Corporation, a Missouri corporation, filed Articles of Dissolution and a Request for Termination with the Missouri Secretary of State.

All persons and organizations who have claims against Interlochen Corporation should present them immediately to Mark A. Bluhm, Lathrop & Gage LLP, 2345 Grand Blvd., Suite 2200, Kansas City, Missouri 64108.

Each claim must include:

1. the name, address and phone number of the claimant;
2. the dollar amount claimed;
3. the date on which the claim arose;
4. the basis for the claim; and
5. documentation for the claim.

A claim against Interlochen Corporation will be barred unless a proceeding to enforce the claim is commenced within two years after the publication date of the last to be published of the three notices of the corporation's dissolution authorized by statute.

Rule Changes Since Update to Code of State Regulations

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—30 (2005) and 31 (2006). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RAN indicates a rule action notice, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
1 CSR 10	OFFICE OF ADMINISTRATION State Officials' Salary Compensation Schedule				30 MoReg 2435
	DEPARTMENT OF AGRICULTURE				
2 CSR 70-11.050	Plant Industries	33 MoReg 1795	34 MoReg 183		
2 CSR 90-10	Weights and Measures				33 MoReg 1193
2 CSR 90-10.011	Weights and Measures	33 MoReg 2081	33 MoReg 2089	34 MoReg 310	
2 CSR 90-10.012	Weights and Measures	33 MoReg 2082	33 MoReg 2090	34 MoReg 310	
2 CSR 100-2.020	Missouri Agricultural and Small Business Development Authority		34 MoReg 592		
2 CSR 100-2.030	Missouri Agricultural and Small Business Development Authority		34 MoReg 592		
2 CSR 100-2.040	Missouri Agricultural and Small Business Development Authority		34 MoReg 593		
2 CSR 100-10.010	Missouri Agricultural and Small Business Development Authority		34 MoReg 595		
	DEPARTMENT OF CONSERVATION				
3 CSR 10-5.205	Conservation Commission		33 MoReg 2095	This Issue	
3 CSR 10-5.215	Conservation Commission		33 MoReg 2097	This Issue	
3 CSR 10-5.220	Conservation Commission		33 MoReg 2097	This Issue	
3 CSR 10-5.222	Conservation Commission		33 MoReg 2097	This Issue	
3 CSR 10-5.225	Conservation Commission		33 MoReg 2098	This Issue	
3 CSR 10-5.300	Conservation Commission		33 MoReg 2100	34 MoReg 544	
3 CSR 10-5.310	Conservation Commission		33 MoReg 2100	This Issue	
3 CSR 10-5.315	Conservation Commission		33 MoReg 2100	34 MoReg 544W	
3 CSR 10-5.320	Conservation Commission		33 MoReg 2101	This Issue	
3 CSR 10-5.321	Conservation Commission		33 MoReg 2101	34 MoReg 544W	
3 CSR 10-5.322	Conservation Commission		33 MoReg 2101	34 MoReg 544W	
3 CSR 10-5.323	Conservation Commission		33 MoReg 2101	34 MoReg 545W	
3 CSR 10-5.330	Conservation Commission		33 MoReg 2102	34 MoReg 545W	
3 CSR 10-5.340	Conservation Commission		33 MoReg 2104	34 MoReg 545W	
3 CSR 10-5.345	Conservation Commission		33 MoReg 2106	34 MoReg 545W	
3 CSR 10-5.351	Conservation Commission		33 MoReg 2108	34 MoReg 546W	
3 CSR 10-5.352	Conservation Commission		33 MoReg 2110	34 MoReg 546W	
3 CSR 10-5.359	Conservation Commission		33 MoReg 2112	34 MoReg 546W	
3 CSR 10-5.360	Conservation Commission		33 MoReg 2114	34 MoReg 546W	
3 CSR 10-5.365	Conservation Commission		33 MoReg 2116	34 MoReg 546W	
3 CSR 10-5.370	Conservation Commission		33 MoReg 2118	34 MoReg 547W	
3 CSR 10-5.375	Conservation Commission		33 MoReg 2120	34 MoReg 547W	
			This IssueR		
3 CSR 10-5.420	Conservation Commission		33 MoReg 2122R	This IssueR	
3 CSR 10-5.425	Conservation Commission		33 MoReg 2122	34 MoReg 547W	
3 CSR 10-5.430	Conservation Commission		33 MoReg 2124	This Issue	
3 CSR 10-5.435	Conservation Commission		33 MoReg 2126	34 MoReg 547W	
3 CSR 10-5.436	Conservation Commission		33 MoReg 2128	This Issue	
3 CSR 10-5.440	Conservation Commission		33 MoReg 2130	34 MoReg 547W	
3 CSR 10-5.445	Conservation Commission		33 MoReg 2132	34 MoReg 548W	
3 CSR 10-5.540	Conservation Commission		33 MoReg 2134	This Issue	
3 CSR 10-5.545	Conservation Commission		33 MoReg 2136	This Issue	
3 CSR 10-5.551	Conservation Commission		33 MoReg 2138	This Issue	
3 CSR 10-5.552	Conservation Commission		33 MoReg 2140	This Issue	
3 CSR 10-5.554	Conservation Commission		33 MoReg 2142	This Issue	
3 CSR 10-5.559	Conservation Commission		33 MoReg 2144	This Issue	
3 CSR 10-5.560	Conservation Commission		33 MoReg 2146	This Issue	
3 CSR 10-5.565	Conservation Commission		33 MoReg 2148	This Issue	
3 CSR 10-5.567	Conservation Commission		33 MoReg 2150	This Issue	
3 CSR 10-5.570	Conservation Commission		33 MoReg 2152	This Issue	
3 CSR 10-5.576	Conservation Commission		33 MoReg 2154R	This IssueR	
3 CSR 10-5.579	Conservation Commission		33 MoReg 2156R	This IssueR	
3 CSR 10-5.580	Conservation Commission		33 MoReg 2158R	This IssueR	
3 CSR 10-6.410	Conservation Commission		33 MoReg 2160	34 MoReg 548	
3 CSR 10-6.415	Conservation Commission		33 MoReg 2160	34 MoReg 548	
3 CSR 10-6.530	Conservation Commission		33 MoReg 2160	34 MoReg 548	
3 CSR 10-6.533	Conservation Commission		33 MoReg 2160	34 MoReg 548	

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3 CSR 10-6.540	Conservation Commission		33 MoReg 2161	34 MoReg 549	
3 CSR 10-6.550	Conservation Commission		33 MoReg 2161 This Issue	34 MoReg 549	
3 CSR 10-6.615	Conservation Commission		33 MoReg 2162	34 MoReg 549	
3 CSR 10-6.620	Conservation Commission		33 MoReg 2162	34 MoReg 549	
3 CSR 10-7.405	Conservation Commission		33 MoReg 2162	34 MoReg 549	
3 CSR 10-7.410	Conservation Commission		33 MoReg 2162 This Issue	34 MoReg 550	
3 CSR 10-7.425	Conservation Commission		This Issue		
3 CSR 10-7.431	Conservation Commission		33 MoReg 2163	34 MoReg 550	
3 CSR 10-7.433	Conservation Commission		33 MoReg 2163	34 MoReg 550	
3 CSR 10-7.434	Conservation Commission		33 MoReg 2164	34 MoReg 551	
3 CSR 10-7.437	Conservation Commission		33 MoReg 2165	34 MoReg 551	
3 CSR 10-7.455	Conservation Commission		33 MoReg 2165	This Issue	34 MoReg 241
3 CSR 10-8.510	Conservation Commission		This Issue		
3 CSR 10-8.515	Conservation Commission		33 MoReg 2166 This Issue	34 MoReg 551	
3 CSR 10-9.110	Conservation Commission		33 MoReg 2166 This Issue	34 MoReg 552	
3 CSR 10-9.353	Conservation Commission		33 MoReg 2168 This Issue	34 MoReg 552	
3 CSR 10-9.359	Conservation Commission		33 MoReg 2168	34 MoReg 552	
3 CSR 10-9.415	Conservation Commission		33 MoReg 2168	34 MoReg 552	
3 CSR 10-9.425	Conservation Commission		33 MoReg 2169	34 MoReg 552	
3 CSR 10-9.442	Conservation Commission		This Issue		
3 CSR 10-9.565	Conservation Commission		33 MoReg 2169 This Issue	34 MoReg 552	
3 CSR 10-9.566	Conservation Commission		33 MoReg 2170	34 MoReg 553	
3 CSR 10-9.575	Conservation Commission		33 MoReg 2170	34 MoReg 553	
3 CSR 10-9.628	Conservation Commission		33 MoReg 2171	34 MoReg 553	
3 CSR 10-10.711	Conservation Commission		33 MoReg 2171	34 MoReg 553W	
3 CSR 10-10.715	Conservation Commission		33 MoReg 2173	34 MoReg 553	
3 CSR 10-10.716	Conservation Commission		33 MoReg 2173	34 MoReg 553	
3 CSR 10-10.722	Conservation Commission		33 MoReg 2173	This Issue	
3 CSR 10-10.724	Conservation Commission		33 MoReg 2174	This Issue	
3 CSR 10-10.725	Conservation Commission		33 MoReg 2176	This Issue	
3 CSR 10-10.726	Conservation Commission		33 MoReg 2176	This Issue	
3 CSR 10-10.727	Conservation Commission		33 MoReg 2176	This Issue	
3 CSR 10-10.728	Conservation Commission		33 MoReg 2177	This Issue	
3 CSR 10-10.735	Conservation Commission		33 MoReg 2179	34 MoReg 554	
3 CSR 10-10.767	Conservation Commission		33 MoReg 2179	34 MoReg 554	
3 CSR 10-10.784	Conservation Commission		33 MoReg 2179	34 MoReg 554	
3 CSR 10-10.787	Conservation Commission		33 MoReg 2180	34 MoReg 554	
3 CSR 10-11.110	Conservation Commission		33 MoReg 2180 This Issue	34 MoReg 554	
3 CSR 10-11.115	Conservation Commission		33 MoReg 2180	34 MoReg 554	
3 CSR 10-11.140	Conservation Commission		33 MoReg 2181	34 MoReg 555	
3 CSR 10-11.150	Conservation Commission		33 MoReg 2181	34 MoReg 555	
3 CSR 10-11.155	Conservation Commission		This Issue		
3 CSR 10-11.160	Conservation Commission		33 MoReg 2182 This Issue	34 MoReg 555	
3 CSR 10-11.165	Conservation Commission		33 MoReg 2182	34 MoReg 555	
3 CSR 10-11.180	Conservation Commission		33 MoReg 2182 This Issue	34 MoReg 555	
3 CSR 10-11.184	Conservation Commission		33 MoReg 2185	34 MoReg 555	
3 CSR 10-11.186	Conservation Commission		This Issue		
3 CSR 10-11.205	Conservation Commission		33 MoReg 2185	34 MoReg 556	
3 CSR 10-11.210	Conservation Commission		33 MoReg 2186	34 MoReg 556	
3 CSR 10-11.215	Conservation Commission		33 MoReg 2186	34 MoReg 556	
3 CSR 10-12.110	Conservation Commission		33 MoReg 2187 This Issue	34 MoReg 556	
3 CSR 10-12.115	Conservation Commission		33 MoReg 2187 This Issue	34 MoReg 556	
3 CSR 10-12.125	Conservation Commission		33 MoReg 2188 This Issue	34 MoReg 557	
3 CSR 10-12.135	Conservation Commission		33 MoReg 2189 This Issue	34 MoReg 557	
3 CSR 10-12.140	Conservation Commission		33 MoReg 2189 This Issue	34 MoReg 557	
3 CSR 10-12.145	Conservation Commission		33 MoReg 2190 This Issue	34 MoReg 557	
3 CSR 10-20.805	Conservation Commission		33 MoReg 2191	This Issue	
DEPARTMENT OF ECONOMIC DEVELOPMENT					
4 CSR 240-3.162	Public Service Commission		34 MoReg 187 34 MoReg 595		34 MoReg 240RAN
4 CSR 240-3.240	Public Service Commission		This IssueR		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 240-3.330	Public Service Commission		This IssueR		
4 CSR 240-3.440	Public Service Commission		This IssueR		
4 CSR 240-3.635	Public Service Commission		This IssueR		
4 CSR 240-20.065	Public Service Commission		34 MoReg 659		
4 CSR 240-20.091	Public Service Commission		34 MoReg 196		34 MoReg 240RAN
			34 MoReg 605		
4 CSR 240-33.170	Public Service Commission		33 MoReg 1942	34 MoReg 611	
DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION					
5 CSR 30-261.025	Division of Administrative and Financial Services		33 MoReg 1946	34 MoReg 727	
5 CSR 30-640.100	Division of Administrative and Financial Services		34 MoReg 113		
5 CSR 80-800.200	Teacher Quality and Urban Education		34 MoReg 368		
5 CSR 80-800.220	Teacher Quality and Urban Education		34 MoReg 368		
5 CSR 80-800.230	Teacher Quality and Urban Education		34 MoReg 369		
5 CSR 80-800.260	Teacher Quality and Urban Education		34 MoReg 369		
5 CSR 80-800.270	Teacher Quality and Urban Education		34 MoReg 370		
5 CSR 80-800.280	Teacher Quality and Urban Education		34 MoReg 370		
5 CSR 80-800.350	Teacher Quality and Urban Education		34 MoReg 370		
5 CSR 80-800.360	Teacher Quality and Urban Education		34 MoReg 372		
5 CSR 80-800.380	Teacher Quality and Urban Education		34 MoReg 372		
DEPARTMENT OF HIGHER EDUCATION					
6 CSR 10-2.010	Commissioner of Higher Education		34 MoReg 115R	This IssueR	
6 CSR 10-2.020	Commissioner of Higher Education		34 MoReg 115R	This IssueR	
6 CSR 10-2.080	Commissioner of Higher Education		34 MoReg 115	This Issue	
6 CSR 10-2.100	Commissioner of Higher Education		34 MoReg 660		
6 CSR 10-2.120	Commissioner of Higher Education		34 MoReg 662		
6 CSR 10-2.130	Commissioner of Higher Education		34 MoReg 665		
6 CSR 10-2.140	Commissioner of Higher Education		34 MoReg 119	This Issue	
6 CSR 10-2.150	Commissioner of Higher Education		34 MoReg 121	This Issue	
6 CSR 10-2.160	Commissioner of Higher Education		34 MoReg 122	This Issue	
6 CSR 10-2.170	Commissioner of Higher Education		34 MoReg 124	This Issue	
DEPARTMENT OF TRANSPORTATION					
7 CSR 10-23.010	Missouri Highways and Transportation Commission		33 MoReg 2426		
7 CSR 10-23.020	Missouri Highways and Transportation Commission		33 MoReg 2427		
7 CSR 10-23.030	Missouri Highways and Transportation Commission		33 MoReg 2428		
7 CSR 10-25.010	Missouri Highways and Transportation Commission				34 MoReg 796
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8 CSR 10-5.010	Division of Employment Security		33 MoReg 1865	34 MoReg 613W	
8 CSR 10-5.015	Division of Employment Security		33 MoReg 1866	34 MoReg 614W	
8 CSR 10-5.030	Division of Employment Security		33 MoReg 1868	34 MoReg 616W	
8 CSR 10-5.040	Division of Employment Security		33 MoReg 1869	34 MoReg 617W	
8 CSR 10-5.050	Division of Employment Security		33 MoReg 1869	34 MoReg 618W	
8 CSR 60-1.010	Missouri Commission on Human Rights		34 MoReg 763		
8 CSR 60-2.065	Missouri Commission on Human Rights		34 MoReg 763		
8 CSR 60-2.130	Missouri Commission on Human Rights		34 MoReg 764		
8 CSR 60-2.150	Missouri Commission on Human Rights		34 MoReg 765		
8 CSR 60-2.200	Missouri Commission on Human Rights		34 MoReg 765		
8 CSR 60-2.210	Missouri Commission on Human Rights		34 MoReg 765		
8 CSR 60-4.015	Missouri Commission on Human Rights		34 MoReg 766		
8 CSR 60-4.020	Missouri Commission on Human Rights		34 MoReg 766		
8 CSR 60-4.030	Missouri Commission on Human Rights		34 MoReg 766		
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9 CSR 10-5.200	Director, Department of Mental Health		34 MoReg 12	34 MoReg 774	
9 CSR 10-5.230	Director, Department of Mental Health		34 MoReg 14	34 MoReg 774	
9 CSR 30-4.0431	Certification Standards		33 MoReg 1804	34 MoReg 557	
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10 CSR 10-5.290	Air Conservation Commission		33 MoReg 1805R	34 MoReg 774R	
10 CSR 10-5.381	Air Conservation Commission		33 MoReg 1946	34 MoReg 775	
10 CSR 10-5.570	Air Conservation Commission		34 MoReg 199		
10 CSR 10-6.045	Air Conservation Commission		34 MoReg 205		
10 CSR 10-6.060	Air Conservation Commission		33 MoReg 2192		
10 CSR 10-6.061	Air Conservation Commission		33 MoReg 1960	34 MoReg 780	
10 CSR 10-6.100	Air Conservation Commission		33 MoReg 2204		
10 CSR 10-6.120	Air Conservation Commission		34 MoReg 206		
10 CSR 10-6.260	Air Conservation Commission		34 MoReg 208		
10 CSR 10-6.320	Air Conservation Commission		34 MoReg 212R		
10 CSR 10-6.350	Air Conservation Commission		33 MoReg 2315		
10 CSR 10-6.360	Air Conservation Commission		33 MoReg 2316		
10 CSR 10-6.400	Air Conservation Commission		33 MoReg 1870	34 MoReg 781	
10 CSR 10-6.410	Air Conservation Commission		33 MoReg 2206		
10 CSR 20-4.061	Clean Water Commission		34 MoReg 767		
10 CSR 20-6.010	Clean Water Commission		34 MoReg 772		
10 CSR 20-6.200	Clean Water Commission		34 MoReg 377		
10 CSR 20-7.031	Clean Water Commission	33 MoReg 2415	34 MoReg 379		
10 CSR 20-7.050	Clean Water Commission	33 MoReg 1855	33 MoReg 1870		

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10 CSR 20-10.010	Clean Water Commission (<i>Changed to 10 CSR 26-2.010</i>)		This Issue		
10 CSR 20-10.011	Clean Water Commission (<i>Changed to 10 CSR 26-2.011</i>)		This Issue		
10 CSR 20-10.012	Clean Water Commission (<i>Changed to 10 CSR 26-2.012</i>)		This Issue		
10 CSR 20-10.020	Clean Water Commission (<i>Changed to 10 CSR 26-2.020</i>)		This Issue		
10 CSR 20-10.021	Clean Water Commission (<i>Changed to 10 CSR 26-2.021</i>)		This Issue		
10 CSR 20-10.022	Clean Water Commission (<i>Changed to 10 CSR 26-2.022</i>)		This Issue		
10 CSR 20-10.030	Clean Water Commission (<i>Changed to 10 CSR 26-2.030</i>)		This Issue		
10 CSR 20-10.031	Clean Water Commission (<i>Changed to 10 CSR 26-2.031</i>)		This Issue		
10 CSR 20-10.032	Clean Water Commission (<i>Changed to 10 CSR 26-2.032</i>)		This Issue		
10 CSR 20-10.033	Clean Water Commission (<i>Changed to 10 CSR 26-2.033</i>)		This Issue		
10 CSR 20-10.034	Clean Water Commission (<i>Changed to 10 CSR 26-2.034</i>)		This Issue		
10 CSR 20-10.040	Clean Water Commission (<i>Changed to 10 CSR 26-2.040</i>)		This Issue		
10 CSR 20-10.041	Clean Water Commission (<i>Changed to 10 CSR 26-2.041</i>)		This Issue		
10 CSR 20-10.042	Clean Water Commission (<i>Changed to 10 CSR 26-2.042</i>)		This Issue		
10 CSR 20-10.043	Clean Water Commission (<i>Changed to 10 CSR 26-2.043</i>)		This Issue		
10 CSR 20-10.044	Clean Water Commission (<i>Changed to 10 CSR 26-2.044</i>)		This Issue		
10 CSR 20-10.045	Clean Water Commission (<i>Changed to 10 CSR 26-2.045</i>)		This Issue		
10 CSR 20-10.050	Clean Water Commission (<i>Changed to 10 CSR 26-2.050</i>)		This Issue		
10 CSR 20-10.051	Clean Water Commission (<i>Changed to 10 CSR 26-2.051</i>)		This Issue		
10 CSR 20-10.052	Clean Water Commission (<i>Changed to 10 CSR 26-2.052</i>)		This Issue		
10 CSR 20-10.053	Clean Water Commission (<i>Changed to 10 CSR 26-2.053</i>)		This Issue		
10 CSR 20-10.060	Clean Water Commission (<i>Changed to 10 CSR 26-2.070</i>)		This Issue		
10 CSR 20-10.061	Clean Water Commission (<i>Changed to 10 CSR 26-2.071</i>)		This Issue		
10 CSR 20-10.062	Clean Water Commission (<i>Changed to 10 CSR 26-2.072</i>)		This Issue		
10 CSR 20-10.063	Clean Water Commission (<i>Changed to 10 CSR 26-2.073</i>)		This Issue		
10 CSR 20-10.064	Clean Water Commission (<i>Changed to 10 CSR 26-2.074</i>)		This Issue		
10 CSR 20-10.065	Clean Water Commission		This IssueR		
10 CSR 20-10.066	Clean Water Commission		This IssueR		
10 CSR 20-10.067	Clean Water Commission		This IssueR		
10 CSR 20-10.068	Clean Water Commission		This IssueR		
10 CSR 20-10.070	Clean Water Commission (<i>Changed to 10 CSR 26-2.060</i>)		This Issue		
10 CSR 20-10.071	Clean Water Commission (<i>Changed to 10 CSR 26-2.061</i>)		This Issue		
10 CSR 20-10.072	Clean Water Commission (<i>Changed to 10 CSR 26-2.062</i>)		This Issue		
10 CSR 20-10.073	Clean Water Commission (<i>Changed to 10 CSR 26-2.063</i>)		This Issue		
10 CSR 20-10.074	Clean Water Commission (<i>Changed to 10 CSR 26-2.064</i>)		This Issue		
10 CSR 20-11.090	Clean Water Commission (<i>Changed to 10 CSR 26-3.090</i>)		This Issue		
10 CSR 20-11.091	Clean Water Commission (<i>Changed to 10 CSR 26-3.091</i>)		This Issue		
10 CSR 20-11.092	Clean Water Commission (<i>Changed to 10 CSR 26-3.092</i>)		This Issue		
10 CSR 20-11.093	Clean Water Commission (<i>Changed to 10 CSR 26-3.093</i>)		This Issue		
10 CSR 20-11.094	Clean Water Commission (<i>Changed to 10 CSR 26-3.094</i>)		This Issue		
10 CSR 20-11.095	Clean Water Commission (<i>Changed to 10 CSR 26-3.095</i>)		This Issue		

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10 CSR 20-11.096	Clean Water Commission (<i>Changed to 10 CSR 26-3.096</i>)		This Issue		
10 CSR 20-11.097	Clean Water Commission (<i>Changed to 10 CSR 26-3.097</i>)		This Issue		
10 CSR 20-11.098	Clean Water Commission (<i>Changed to 10 CSR 26-3.098</i>)		This Issue		
10 CSR 20-11.099	Clean Water Commission (<i>Changed to 10 CSR 26-3.099</i>)		This Issue		
10 CSR 20-11.101	Clean Water Commission (<i>Changed to 10 CSR 26-3.101</i>)		This Issue		
10 CSR 20-11.102	Clean Water Commission (<i>Changed to 10 CSR 26-3.102</i>)		This Issue		
10 CSR 20-11.103	Clean Water Commission (<i>Changed to 10 CSR 26-3.103</i>)		This Issue		
10 CSR 20-11.104	Clean Water Commission (<i>Changed to 10 CSR 26-3.104</i>)		This Issue		
10 CSR 20-11.105	Clean Water Commission (<i>Changed to 10 CSR 26-3.105</i>)		This Issue		
10 CSR 20-11.106	Clean Water Commission (<i>Changed to 10 CSR 26-3.106</i>)		This Issue		
10 CSR 20-11.107	Clean Water Commission (<i>Changed to 10 CSR 26-3.107</i>)		This Issue		
10 CSR 20-11.108	Clean Water Commission (<i>Changed to 10 CSR 26-3.108</i>)		This Issue		
10 CSR 20-11.109	Clean Water Commission (<i>Changed to 10 CSR 26-3.109</i>)		This Issue		
10 CSR 20-11.110	Clean Water Commission (<i>Changed to 10 CSR 26-3.110</i>)		This Issue		
10 CSR 20-11.111	Clean Water Commission (<i>Changed to 10 CSR 26-3.111</i>)		This Issue		
10 CSR 20-11.112	Clean Water Commission (<i>Changed to 10 CSR 26-3.112</i>)		This Issue		
10 CSR 20-11.113	Clean Water Commission (<i>Changed to 10 CSR 26-3.113</i>)		This Issue		
10 CSR 20-11.114	Clean Water Commission (<i>Changed to 10 CSR 26-3.114</i>)		This Issue		
10 CSR 20-11.115	Clean Water Commission (<i>Changed to 10 CSR 26-3.115</i>)		This Issue		
10 CSR 20-13.080	Clean Water Commission (<i>Changed to 10 CSR 26-4.080</i>)		This Issue		
10 CSR 20-15.010	Clean Water Commission (<i>Changed to 10 CSR 26-5.010</i>)		This Issue		
10 CSR 20-15.020	Clean Water Commission (<i>Changed to 10 CSR 26-5.020</i>)		This Issue		
10 CSR 20-15.030	Clean Water Commission (<i>Changed to 10 CSR 26-5.030</i>)		This Issue		
10 CSR 25-3.260	Hazardous Waste Management Commission		33 MoReg 2207	This Issue	
10 CSR 25-4.261	Hazardous Waste Management Commission		33 MoReg 2209	This Issue	
10 CSR 25-5.262	Hazardous Waste Management Commission		33 MoReg 2210	This Issue	
10 CSR 25-6.263	Hazardous Waste Management Commission		33 MoReg 2214	This Issue	
10 CSR 25-7.264	Hazardous Waste Management Commission		33 MoReg 2215	This Issue	
10 CSR 25-7.265	Hazardous Waste Management Commission		33 MoReg 2219	This Issue	
10 CSR 25-7.266	Hazardous Waste Management Commission		33 MoReg 2222	This Issue	
10 CSR 25-7.268	Hazardous Waste Management Commission		33 MoReg 2223	This Issue	
10 CSR 25-7.270	Hazardous Waste Management Commission		33 MoReg 2223	This Issue	
10 CSR 25-11.279	Hazardous Waste Management Commission		33 MoReg 2225	This Issue	
10 CSR 25-12.010	Hazardous Waste Management Commission		33 MoReg 2226	This Issue	
10 CSR 25-13.010	Hazardous Waste Management Commission		33 MoReg 2228	This Issue	
10 CSR 25-16.273	Hazardous Waste Management Commission		33 MoReg 2230	This Issue	
10 CSR 25-18.010	Hazardous Waste Management Commission		34 MoReg 527		
10 CSR 26-1.010	Petroleum and Hazardous Substance Storage Tanks		This Issue		
10 CSR 26-2.010	Petroleum and Hazardous Substance Storage Tanks (<i>Changed from 10 CSR 20-10.010</i>)		This Issue		
10 CSR 26-2.011	Petroleum and Hazardous Substance Storage Tanks (<i>Changed from 10 CSR 20-10.011</i>)		This Issue		
10 CSR 26-2.012	Petroleum and Hazardous Substance Storage Tanks (<i>Changed from 10 CSR 20-10.012</i>)		This Issue		
10 CSR 26-2.020	Petroleum and Hazardous Substance Storage Tanks (<i>Changed from 10 CSR 20-10.020</i>)		This Issue		
10 CSR 26-2.021	Petroleum and Hazardous Substance Storage Tanks (<i>Changed from 10 CSR 20-10.021</i>)		This Issue		
10 CSR 26-2.022	Petroleum and Hazardous Substance Storage Tanks (<i>Changed from 10 CSR 20-10.022</i>)		This Issue		
10 CSR 26-2.030	Petroleum and Hazardous Substance Storage Tanks (<i>Changed from 10 CSR 20-10.030</i>)		This Issue		
10 CSR 26-2.031	Petroleum and Hazardous Substance Storage Tanks (<i>Changed from 10 CSR 20-10.031</i>)		This Issue		
10 CSR 26-2.032	Petroleum and Hazardous Substance Storage Tanks (<i>Changed from 10 CSR 20-10.032</i>)		This Issue		

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10 CSR 26-3.105	Petroleum and Hazardous Substance Storage Tanks (Changed from 10 CSR 20-11.105)		This Issue		
10 CSR 26-3.106	Petroleum and Hazardous Substance Storage Tanks (Changed from 10 CSR 20-11.106)		This Issue		
10 CSR 26-3.107	Petroleum and Hazardous Substance Storage Tanks (Changed from 10 CSR 20-11.107)		This Issue		
10 CSR 26-3.108	Petroleum and Hazardous Substance Storage Tanks (Changed from 10 CSR 20-11.108)		This Issue		
10 CSR 26-3.109	Petroleum and Hazardous Substance Storage Tanks (Changed from 10 CSR 20-11.109)		This Issue		
10 CSR 26-3.110	Petroleum and Hazardous Substance Storage Tanks (Changed from 10 CSR 20-11.110)		This Issue		
10 CSR 26-3.111	Petroleum and Hazardous Substance Storage Tanks (Changed from 10 CSR 20-11.111)		This Issue		
10 CSR 26-3.112	Petroleum and Hazardous Substance Storage Tanks (Changed from 10 CSR 20-11.112)		This Issue		
10 CSR 26-3.113	Petroleum and Hazardous Substance Storage Tanks (Changed from 10 CSR 20-11.113)		This Issue		
10 CSR 26-3.114	Petroleum and Hazardous Substance Storage Tanks (Changed from 10 CSR 20-11.114)		This Issue		
10 CSR 26-3.115	Petroleum and Hazardous Substance Storage Tanks (Changed from 10 CSR 20-11.115)		This Issue		
10 CSR 26-4.080	Petroleum and Hazardous Substance Storage Tanks (Changed from 10 CSR 20-13.080)		This Issue		
10 CSR 26-5.010	Petroleum and Hazardous Substance Storage Tanks (Changed from 10 CSR 20-15.010)		This Issue		
10 CSR 26-5.020	Petroleum and Hazardous Substance Storage Tanks (Changed from 10 CSR 20-15.020)		This Issue		
10 CSR 26-5.030	Petroleum and Hazardous Substance Storage Tanks (Changed from 10 CSR 20-15.030)		This Issue		
10 CSR 60-2.015	Safe Drinking Water Commission		33 MoReg 1964 34 MoReg 667		
10 CSR 60-4.052	Safe Drinking Water Commission		33 MoReg 1967 34 MoReg 671		
10 CSR 60-4.090	Safe Drinking Water Commission		33 MoReg 1991 34 MoReg 695		
10 CSR 60-4.092	Safe Drinking Water Commission		33 MoReg 1996 34 MoReg 701		
10 CSR 60-4.094	Safe Drinking Water Commission		33 MoReg 1996 34 MoReg 701		
10 CSR 60-5.010	Safe Drinking Water Commission		33 MoReg 2006 34 MoReg 711		
10 CSR 60-7.010	Safe Drinking Water Commission		33 MoReg 2006 34 MoReg 711		
10 CSR 60-8.010	Safe Drinking Water Commission		33 MoReg 2010 34 MoReg 715		
10 CSR 60-8.030	Safe Drinking Water Commission		33 MoReg 2014 34 MoReg 719		
10 CSR 60-9.010	Safe Drinking Water Commission		33 MoReg 2018 34 MoReg 723		
10 CSR 70-9.010	Soil and Water Districts Commission		33 MoReg 1722		
10 CSR 140-2	Division of Energy				33 MoReg 1103 33 MoReg 1193

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11 CSR 40-2.025	Division of Fire Safety	34 MoReg 175	34 MoReg 212		
11 CSR 45-1.090	Missouri Gaming Commission	33 MoReg 2303	33 MoReg 2317	34 MoReg 618	
11 CSR 45-5.053	Missouri Gaming Commission	33 MoReg 2303	33 MoReg 2318	34 MoReg 618	
11 CSR 45-5.100	Missouri Gaming Commission		33 MoReg 2318	34 MoReg 619	
11 CSR 45-6.040	Missouri Gaming Commission	33 MoReg 2304R	33 MoReg 2319R	34 MoReg 619R	
11 CSR 45-8.120	Missouri Gaming Commission	33 MoReg 2304	33 MoReg 2319	34 MoReg 619	
11 CSR 45-9.010	Missouri Gaming Commission		33 MoReg 2320	34 MoReg 619	
11 CSR 45-9.020	Missouri Gaming Commission		33 MoReg 2320	34 MoReg 619	
11 CSR 45-9.030	Missouri Gaming Commission	33 MoReg 2305	33 MoReg 2320	34 MoReg 620	
11 CSR 45-9.040	Missouri Gaming Commission	33 MoReg 2305	33 MoReg 2322	34 MoReg 623	
11 CSR 45-11.020	Missouri Gaming Commission	33 MoReg 2306	33 MoReg 2323	34 MoReg 623	
11 CSR 45-11.050	Missouri Gaming Commission	33 MoReg 2306	33 MoReg 2326	34 MoReg 625	
11 CSR 80-5.010	Missouri State Water Patrol		34 MoReg 282		
11 CSR 85-1.010	Veterans' Affairs		34 MoReg 284		
11 CSR 85-1.015	Veterans' Affairs		34 MoReg 285		
11 CSR 85-1.020	Veterans' Affairs		34 MoReg 285		
11 CSR 85-1.040	Veterans' Affairs		34 MoReg 286		
11 CSR 85-1.050	Veterans' Affairs		34 MoReg 286		

DEPARTMENT OF REVENUE

12 CSR 10-7.170	Director of Revenue		33 MoReg 2018R	34 MoReg 558R	
12 CSR 10-7.250	Director of Revenue		33 MoReg 2018R	34 MoReg 558R	
12 CSR 10-7.260	Director of Revenue		33 MoReg 2019R	34 MoReg 558R	

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12 CSR 10-7.320	Director of Revenue		34 MoReg 215R		
12 CSR 10-16.170	Director of Revenue		34 MoReg 215R		
12 CSR 10-23.100	Director of Revenue		33 MoReg 2232	34 MoReg 559	
12 CSR 10-41.010	Director of Revenue	33 MoReg 2307	33 MoReg 2326	34 MoReg 727	
12 CSR 10-43.030	Director of Revenue		33 MoReg 2019	34 MoReg 559	
12 CSR 10-103.380	Director of Revenue		33 MoReg 2020R	34 MoReg 559R	
12 CSR 30-3.010	State Tax Commission		33 MoReg 2235	34 MoReg 727	
DEPARTMENT OF SOCIAL SERVICES					
13 CSR 30-3.010	Child Support Enforcement (<i>Changed to 13 CSR 40-3.010</i>)		34 MoReg 16		
13 CSR 30-3.020	Child Support Enforcement (<i>Changed to 13 CSR 40-3.020</i>)		34 MoReg 16		
13 CSR 40-2.390	Family Support Division	33 MoReg 1941	33 MoReg 2021	34 MoReg 727	
13 CSR 40-3.010	Family Support Division (<i>Changed from 13 CSR 30-3.010</i>)		34 MoReg 16		
13 CSR 40-3.020	Family Support Division (<i>Changed from 13 CSR 30-3.020</i>)		34 MoReg 16		
13 CSR 70-3.180	MO HealthNet Division		34 MoReg 723		
13 CSR 70-3.190	MO HealthNet Division		34 MoReg 608		
13 CSR 70-4.120	MO HealthNet Division		33 MoReg 440		
13 CSR 70-15.200	MO HealthNet Division		33 MoReg 2430		
13 CSR 70-20.320	MO HealthNet Division	33 MoReg 1856	33 MoReg 1871	34 MoReg 625	
13 CSR 70-30.010	MO HealthNet Division		33 MoReg 2331	34 MoReg 782	
13 CSR 70-60.010	MO HealthNet Division		34 MoReg 286		
13 CSR 70-70.010	MO HealthNet Division		33 MoReg 2235	34 MoReg 782	
13 CSR 70-98.015	MO HealthNet Division		33 MoReg 2331	34 MoReg 782	
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15 CSR 60-15.010	Attorney General	34 MoReg 651	34 MoReg 724		
15 CSR 60-15.020	Attorney General	34 MoReg 651	34 MoReg 724		
15 CSR 60-15.030	Attorney General	34 MoReg 652	34 MoReg 725		
15 CSR 60-15.040	Attorney General	34 MoReg 652	34 MoReg 725		
15 CSR 60-15.050	Attorney General	34 MoReg 653	34 MoReg 726		
RETIREMENT SYSTEMS					
16 CSR 50-2.090	The County Employees' Retirement Fund		34 MoReg 215		
16 CSR 50-3.010	The County Employees' Retirement Fund		34 MoReg 216		
16 CSR 50-10.010	The County Employees' Retirement Fund		34 MoReg 217		
16 CSR 50-10.030	The County Employees' Retirement Fund		34 MoReg 217		
16 CSR 50-10.050	The County Employees' Retirement Fund		This Issue		
16 CSR 50-20.020	The County Employees' Retirement Fund		34 MoReg 218		
16 CSR 50-20.120	The County Employees' Retirement Fund		34 MoReg 218		
DEPARTMENT OF HEALTH AND SENIOR SERVICES					
19 CSR 20-3.070	Division of Community and Public Health		33 MoReg 2331R	34 MoReg 728R	
			33 MoReg 2332	34 MoReg 728	
19 CSR 20-3.080	Division of Community and Public Health		33 MoReg 2337	34 MoReg 728	
19 CSR 20-44.010	Division of Community and Public Health		34 MoReg 288		
19 CSR 30-20.096	Division of Regulation and Licensure		33 MoReg 2343	This Issue	
19 CSR 30-26.010	Division of Regulation and Licensure		33 MoReg 2348	This Issue	
19 CSR 30-40.342	Division of Regulation and Licensure		34 MoReg 289		
19 CSR 30-40.600	Division of Regulation and Licensure		34 MoReg 296		
19 CSR 30-70.650	Division of Regulation and Licensure		33 MoReg 2356	34 MoReg 782W	
19 CSR 30-85.022	Division of Regulation and Licensure	34 MoReg 5	34 MoReg 17	34 MoReg 783	
19 CSR 30-86.022	Division of Regulation and Licensure	34 MoReg 7	34 MoReg 29	34 MoReg 784	
19 CSR 40-11.010	Division of Maternal, Child and Family Health	34 MoReg 271	34 MoReg 304		
19 CSR 60-50	Missouri Health Facilities Review Committee				34 MoReg 736 34 MoReg 797
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION					
20 CSR	Construction Claims Binding Arbitration Cap				32 MoReg 667 33 MoReg 150 33 MoReg 2446
20 CSR	Medical Malpractice				30 MoReg 481 31 MoReg 616 32 MoReg 545
20 CSR	Sovereign Immunity Limits				30 MoReg 108 30 MoReg 2587 31 MoReg 2019 33 MoReg 150 33 MoReg 2446
20 CSR	State Legal Expense Fund Cap				32 MoReg 668 33 MoReg 150 33 MoReg 2446
20 CSR 100-1.060	Insurer Conduct		33 MoReg 1877	34 MoReg 728	
20 CSR 100-1.070	Insurer Conduct		33 MoReg 1879	34 MoReg 732	

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20 CSR 200-1.116	Insurance Solvency and Company Regulation		33 MoReg 2358	34 MoReg 733	
20 CSR 200-12.020	Insurance Solvency and Company Regulation		33 MoReg 2237	This Issue	
20 CSR 400-1.170	Life, Annuities and Health	34 MoReg 175	34 MoReg 219		
20 CSR 400-2.200	Life, Annuities and Health		34 MoReg 542		
20 CSR 500-7.030	Property and Casualty	33 MoReg 2085	33 MoReg 2238		
20 CSR 500-7.080	Property and Casualty	33 MoReg 2085	33 MoReg 2238		
20 CSR 600-1.030	Statistical Reporting		33 MoReg 1882		
20 CSR 700-3.200	Insurance Licensing	34 MoReg 274	34 MoReg 309		
20 CSR 2030-5.030	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		34 MoReg 45	This Issue	
20 CSR 2085-3.010	Board of Cosmetology and Barber Examiners		This Issue		
20 CSR 2095-1.060	Committee for Professional Counselors		34 MoReg 45R	34 MoReg 792R	
			34 MoReg 45	34 MoReg 792	
20 CSR 2095-1.062	Committee for Professional Counselors		34 MoReg 48	34 MoReg 792	
20 CSR 2095-1.064	Committee for Professional Counselors		34 MoReg 52	34 MoReg 792	
20 CSR 2095-1.068	Committee for Professional Counselors		34 MoReg 55	34 MoReg 793	
20 CSR 2095-1.070	Committee for Professional Counselors		34 MoReg 59	34 MoReg 793	
20 CSR 2095-2.005	Committee for Professional Counselors		34 MoReg 63	34 MoReg 793	
20 CSR 2095-2.010	Committee for Professional Counselors		34 MoReg 63R	34 MoReg 793R	
			34 MoReg 63	34 MoReg 793	
20 CSR 2095-2.020	Committee for Professional Counselors		34 MoReg 67	34 MoReg 793	
20 CSR 2095-2.021	Committee for Professional Counselors		34 MoReg 68	34 MoReg 794	
20 CSR 2095-2.030	Committee for Professional Counselors		34 MoReg 68	34 MoReg 794	
20 CSR 2095-2.065	Committee for Professional Counselors		34 MoReg 69	34 MoReg 794	
20 CSR 2095-3.010	Committee for Professional Counselors		34 MoReg 71	34 MoReg 794	
20 CSR 2110-2.010	Missouri Dental Board		34 MoReg 126	This Issue	
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22 CSR 10-2.075	Health Care Plan	34 MoReg 178	34 MoReg 233		
22 CSR 10-3.030	Health Care Plan	34 MoReg 179	34 MoReg 234		
22 CSR 10-3.075	Health Care Plan	34 MoReg 179	34 MoReg 235		

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10 CSR 20-7.031	Water Quality Standards	33 MoReg 2415	Nov. 22, 2008 May 20, 2009
10 CSR 20-7.050	Methodology for Development of Impaired Waters List	33 MoReg 1855	Jan. 2, 2009 June 30, 2009
Department of Public Safety			
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11 CSR 40-2.025	Installation Permits	34 MoReg 175	Jan. 1, 2009 June 29, 2009
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11 CSR 45-1.090	Definitions	33 MoReg 2303	Nov. 15, 2008 May 13, 2009
11 CSR 45-5.053	Policies	33 MoReg 2303	Nov. 15, 2008 May 13, 2009
11 CSR 45-6.040	Five Hundred Dollar-Loss Limit	33 MoReg 2304	Nov. 15, 2008 May 13, 2009
11 CSR 45-8.120	Handling of Cash at Gaming Tables	33 MoReg 2304	Nov. 15, 2008 May 13, 2009
11 CSR 45-9.030	Minimum Internal Control Standards	33 MoReg 2305	Nov. 15, 2008 May 13, 2009
11 CSR 45-9.040	Commission Approval of Internal Control System	33 MoReg 2305	Nov. 15, 2008 May 13, 2009
11 CSR 45-11.020	Deposit Account—Taxes and Fees	33 MoReg 2306	Nov. 15, 2008 May 13, 2009
11 CSR 45-11.050	Admission Fee	33 MoReg 2306	Nov. 15, 2008 May 13, 2009
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12 CSR 10-41.010	Annual Adjusted Rate of Interest	33 MoReg 2307	Jan. 1, 2009 June 29, 2009
Elected Officials			
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15 CSR 60-15.010	Definitions	34 MoReg 651	March 12, 2009 Sept. 7, 2009
15 CSR 60-15.020	Form of Affidavit	34 MoReg 651	March 12, 2009 Sept. 7, 2009
15 CSR 60-15.030	Complaints	34 MoReg 652	March 12, 2009 Sept. 7, 2009
15 CSR 60-15.040	Investigation of Complaints	34 MoReg 652	March 12, 2009 Sept. 7, 2009
15 CSR 60-15.050	Notification by Federal Government that Individual Is Not Authorized to Work	34 MoReg 653	March 12, 2009 Sept. 7, 2009
Department of Health and Senior Services			
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19 CSR 30-85.022	Fire Safety Standards for New and Existing Intermediate Care and Skilled Nursing Facilities	34 MoReg 5	Dec. 4, 2008 June 1, 2009
19 CSR 30-86.022	Fire Safety Standards for Residential Care Facilities and Assisted Living Facilities	34 MoReg 7	Dec. 4, 2008 June 1, 2009
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19 CSR 40-11.010	Payments for Vision Examinations	34 MoReg 271	Jan. 19, 2009 July 17, 2009
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20 CSR 400-1.170	Recognition of Preferred Mortality Tables in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits	34 MoReg 175	Dec. 31, 2008 June 28, 2009
Property and Casualty			
20 CSR 500-7.030	General Instructions	33 MoReg 2085	Jan. 1, 2009 June 29, 2009
20 CSR 500-7.080	Insurer's Annual On-site Review	33 MoReg 2085	Jan. 1, 2009 June 29, 2009
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20 CSR 700-3.200	Continuing Education	34 MoReg 274	Jan. 18, 2009 July 16, 2009
Acupuncturist Advisory Committee			
20 CSR 2015-1.030	Fees	Next Issue	April 19, 2009 Jan. 27, 2010
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20 CSR 2205-1.050	Fees	Next Issue	April 17, 2009 Jan. 27, 2010
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20 CSR 2267-2.020	Fees	Next Issue	April 17, 2009 Jan. 27, 2010
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20 CSR 2270-1.021	Fees	This Issue	April 2, 2009 Jan. 12, 2010

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22 CSR 10-2.050	PPO and Co-Pay Benefit Provisions and Covered Charges . . .	34 MoReg 176 Jan. 1, 2009	June 29, 2009
22 CSR 10-2.053	High Deductible Health Plan Benefit Provisions and Covered Charges	34 MoReg 177 Jan. 1, 2009	June 29, 2009
22 CSR 10-2.060	PPO, HDHP, and Co-Pay Limitations	34 MoReg 178 Jan. 1, 2009	June 29, 2009
22 CSR 10-2.075	Review and Appeals Procedure	34 MoReg 178 Jan. 1, 2009	June 29, 2009
22 CSR 10-3.030	Public Entity Membership Agreement and Participation Period	34 MoReg 179 Jan. 1, 2009	June 29, 2009
22 CSR 10-3.075	Review and Appeals Procedure	34 MoReg 179 Jan. 1, 2009	June 29, 2009

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09-17	Creates the Transform Missouri Project as well as the Taxpayer Accountability, Compliance, and Transparency Unit, and rescinds Executive Order 09-12	March 31, 2009	This Issue
09-16	Directs the Department of Corrections to lead a permanent, interagency steering team for the Missouri Reentry Process	March 26, 2009	This Issue
09-15	Expands the Missouri Automotive Jobs Task Force to consist of 18 members	March 24, 2009	This Issue
09-14	Designates members of the governor's staff as having supervisory authority over departments, divisions, or agencies	March 5, 2009	34 MoReg 761
09-13	Extends Executive Order 09-04 and Executive Order 09-07 through March 31, 2009	February 25, 2009	34 MoReg 657
09-12	Creates and establishes the Transform Missouri Initiative	February 20, 2009	34 MoReg 655
09-11	Orders the Department of Health and Senior Services and the Department of Social Services to transfer the Blindness Education, Screening and Treatment Program (BEST) to the Department of Social Services	February 4, 2009	34 MoReg 590
09-10	Orders the Department of Elementary and Secondary Education and the Department of Economic Development to transfer the Missouri Customized Training Program to the Department of Economic Development	February 4, 2009	34 MoReg 588
09-09	Transfers the various scholarship programs under the Departments of Agriculture, Elementary and Secondary Education, Higher Education, and Natural Resources to the Department of Higher Education	February 4, 2009	34 MoReg 585
09-08	Designates members of the governor's staff as having supervisory authority over departments, divisions, or agencies	February 2, 2009	34 MoReg 366
09-07	Gives the director of the Missouri Department of Natural Resources the authority to temporarily suspend regulations in the aftermath of severe weather that began on January 26	January 30, 2009	34 MoReg 364
09-06	Activates the state militia in response to the aftermath of severe storms that began on January 26	January 28, 2009	34 MoReg 362
09-05	Establishes a Complete Count Committee for the 2010 Census	January 27, 2009	34 MoReg 359
09-04	Declares a state of emergency and activates the Missouri State Emergency Operations Plan	January 26, 2009	34 MoReg 357
09-03	Directs the Missouri Department of Economic Development, working with the Missouri Development Finance Board, to create a pool of funds designated for low-interest and no-interest direct loans for small business	January 13, 2009	34 MoReg 281
09-02	Creates the Economic Stimulus Coordination Council	January 13, 2009	34 MoReg 279
09-01	Creates the Missouri Automotive Jobs Task Force	January 13, 2009	34 MoReg 277

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08-41	Extends Executive Order 07-31 until January 12, 2009	January 9, 2009	34 MoReg 275
08-40	Extends Executive Order 07-01 until January 1, 2010	December 17, 2008	34 MoReg 181
08-39	Closes state offices in Cole County on Monday, January 12, 2009	December 3, 2008	34 MoReg 11
08-38	Amends Executive Order 03-17 to revise the composition of the committee to include the Divisional Commander of the Midland Division of the Salvation Army or his or her designee	November 25, 2008	34 MoReg 10
08-37	Orders the Department of Natural Resources to develop a voluntary certification program to identify environmentally responsible practices in Missouri's lodging industries	November 13, 2008	33 MoReg 2424
08-36	Orders the departments and agencies of the Executive Branch of Missouri state government to adopt a Pandemic Flu Share Leave Program	October 23, 2008	33 MoReg 2313
08-35	Creates the Division of Developmental Disabilities and abolishes the Division of Mental Retardation and Developmental Disabilities within the Department of Mental Health	October 16, 2008	33 MoReg 2311
08-34	Establishes the Complete Count Committee to ensure an accurate count of Missouri citizens during the 2010 Census	October 21, 2008	33 MoReg 2309
08-33	Advises that state offices will be closed on Friday, December 26, 2008	October 29, 2008	33 MoReg 2308
08-32	Advises that state offices will be closed on Friday, November 28, 2008	October 2, 2008	33 MoReg 2088

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08-31 Declares that a state of emergency exists in the state of Missouri and directs that the Missouri State Emergency Operations Plan be activated	September 15, 2008	33 MoReg 1863
08-30 Directs the Adjutant General call and order into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri, to protect life and property, and to support civilian authorities	September 15, 2008	33 MoReg 1861
08-29 Transfers the Breath Alcohol Program back to the Department of Health and Senior Services from the Department of Transportation by Type I transfer	September 12, 2008	33 MoReg 1859
08-28 Orders and directs the Adjutant General of the state of Missouri, or his designee, to call and order forthwith into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri to protect life and property	August 30, 2008	33 MoReg 1801
08-27 Declares that Missouri will implement the Emergency Management Assistance Compact with Louisiana in evacuating disaster victims associated with Hurricane Gustav from that state to the state of Missouri	August 30, 2008	33 MoReg 1799
08-26 Extends the order contained in Executive Orders 08-21, 08-23, and 08-25	August 29, 2008	33 MoReg 1797
08-25 Extends the order contained in Executive Orders 08-21 and 08-23	July 28, 2008	33 MoReg 1658
08-24 Extends the declaration of emergency contained in Executive Order 08-20 and the terms of Executive Order 08-19	July 11, 2008	33 MoReg 1546
08-23 Extends the declaration of emergency contained in Executive Order 08-21	July 11, 2008	33 MoReg 1545
08-22 Designates members of staff with supervisory authority over selected state agencies	July 3, 2008	33 MoReg 1543
08-21 Authorizes the Department of Natural Resources to temporarily waive or suspend rules during the period of the emergency	June 20, 2008	33 MoReg 1389
08-20 Declares a state of emergency exists and directs the Missouri State Emergency Operations Plan be activated	June 11, 2008	33 MoReg 1331
08-19 Orders and directs the Adjutant General of the state of Missouri, or his designee, to call and order forthwith into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri to protect life and property	June 11, 2008	33 MoReg 1329
08-18 Authorizes the Department of Natural Resources to temporarily waive or suspend rules during the period of the emergency	May 13, 2008	33 MoReg 1131
08-17 Extends the declaration of emergency contained in Executive Order 08-14 and the terms of Executive Order 08-15	April 29, 2008	33 MoReg 1071
08-15 Calls organized militia into active service	April 1, 2008	33 MoReg 905
08-14 Declares a state of emergency exists and directs the Missouri State Emergency Operations Plan be activated	April 1, 2008	33 MoReg 903
08-13 Expands the number of state employees allowed to participate in the Missouri Mentor Initiative	March 27, 2008	33 MoReg 901
08-12 Authorizes the Department of Natural Resources to temporarily waive or suspend rules during the period of the emergency	March 21, 2008	33 MoReg 899
08-11 Calls organized militia into active service	March 18, 2008	33 MoReg 897
08-10 Declares a state of emergency exists and directs the Missouri State Emergency Operations Plan be activated	March 18, 2008	33 MoReg 895
08-09 Establishes the Missouri Civil War Sesquicentennial Commission	March 6, 2008	33 MoReg 783
08-08 Gives Department of Natural Resources authority to suspend regulations in the aftermath of severe weather that began on February 10, 2008	February 20, 2008	33 MoReg 715
08-07 Declares that a state of emergency exists in the state of Missouri.	February 12, 2008	33 MoReg 625
08-06 Orders and directs the Adjutant General of the state of Missouri, or his designee, to call and order forthwith into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri to protect life and property	February 12, 2008	33 MoReg 623
08-05 Extends Executive Orders, 07-34, 07-36 and 07-39 through March 15, 2008 for the purpose of continuing the cleanup efforts in affected communities	February 11, 2008	33 MoReg 621
08-04 Transfers authority of the sexual assault evidentiary kit and exam payment program from the Department of Health and Senior Services to Department of Public Safety by Type 1 transfer	February 6, 2008	33 MoReg 619
08-03 Activates the state militia in response to the aftermath of severe storms that began on January 7, 2008	January 11, 2008	33 MoReg 405

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08-02	Activates the Missouri State Emergency Operations Plan in the aftermath of severe weather that began on January 7, 2008	January 11, 2008	33 MoReg 403
08-01	Establishes the post of Missouri Poet Laureate	January 8, 2008	33 MoReg 401

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creates the Transform Missouri Project as well as the Taxpayer Accountability, Compliance, and Transparency Unit, and rescinds Executive Order 09-12; 09-17; 5/1/09
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3. Certify that the attached are complete and accurate copies of the rulemaking;
4. State the economic impact on small business (for proposed rulemaking);
5. State that a takings analysis has occurred (for proposed rulemaking);
6. Contain an authorized signature of the department director or his/her designee which is on file with Administrative Rules; and
7. Be dated with the date the proposed rulemaking or order of rulemaking is filed with Administrative Rules. If no date is on the letter, the file date will be stamped on the letter by Administrative Rules' staff and will serve as the date of the letter.